

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

912 ANTICIPATORY BAIL APPLICATION NO. 1142 OF 2020

**1. PRATIBHA W/O. DEEPAK PATIL
2. MAYURI D/O. DEEPAK PATIL
VERSUS
THE STATE OF MAHARASHTRA**

**Advocate for Applicants : Mr. V.D. Gunale.
APP for State : Mr. P.G. Borade.**

**CORAM : MANGESH S. PATIL, J.
DATED : 20.01.2021**

PER COURT :

In this application under Section 438 of the Code of Criminal Procedure, the applicants are seeking bail in the event of their arrest in connection with Crime No. 133/2020 registered with Devni Police Station, Taluka Devni, District Latur, for the offences punishable under Sections 307, 504, 506 read with Section 34 of the Indian Penal Code.

2. In substance, the allegations are to the effect that the main accused Deepak and the informant are the real brothers. The informant was harboring the grudge that he was allotted lesser land in the partition. He was insisting for equitable partition and transfer of three acres land in his name which the accused Deepak was

refusing. It is alleged that on 14.06.2020, at around mid night when the informant was going home after having dinner with witness Suryakant Gunderao Patil, on the way Deepak, the present applicants who happens to be his wife and daughter and his mother who incidentally is also the mother of the informant assaulted him with the intention to kill.

3. The role attributed to the applicants is that the applicant No. 1 assaulted him on his heel with an axe and applicant No. 2 gave a blow of knife on his left palm.

4. Since I am considering the request of the applicants only, I am not referring to the role attributed to the other two accused i.e. Deepak who has been arrested and released on regular bail and his mother Komalbai who has also been granted bail.

5. Learned Advocate for the applicants submits that in fact the informant was the assailant. He arrived at the scene, questioned Deepak as to why he was not allotting the land and why was he putting up the grievance with the police, and assaulted him. A separate FIR to that effect was lodged by Deepak, though the police registered it after they registered the FIR in the present case.

6. The learned Advocate would submit that already investigation is over and the charge sheet has been filed. The applicants are women. The applicant No. 2 is in fact a student undertaking her studies. They are ready to cooperate the Investigating Officer and may be granted bail.

7. He would further submit that the witnesses named in the FIR in their statement under Section 161 of the Cr.P.C. have not attributed specific role to either of the applicants and therefore, both the applicants may be granted bail in the event of their arrest.

8. Lastly, the learned Advocate would point out that the injuries sustained by the informant, as can be seen from the injury certificate, are not compatible with the allegations being levelled against the applicants.

9. Learned APP opposes the application. He points out that at this juncture there is nothing to disbelieve the informant. The very fact that the counter FIR has been lodged mentioning presence of accused Deepak at the scene is eloquent enough.

10. Learned APP would further point out that though the witnesses

in their Section 161 of the Code of Criminal Procedure have not attributed specific role to the applicant, in their statement under Section 164 of the Cr.P.C. they have given enough corroboration to the prosecution version and have stated about the role of each of the applicants. Learned APP would further submit that the injury certificate clearly demonstrates and corroborates the allegations in the FIR. Injury No. 4 is clearly attributable to applicant No. 1 and Injury No. 6 can be attributed to the applicant No. 2. Since even the applicants are attributed with carrying weapon and using them, their custodial interrogation is necessary to recover the weapons used by them. The offence is punishable up to life imprisonment and no leniency be shown merely because the applicants are women.

11. I have carefully gone through the papers of the investigation. As has been pointed out by the learned APP, there is a counter FIR lodged by accused Deepak which *prima facie* corroborates the version in the present FIR about his presence at the scene of the crime as also the presence of the present applicants who happens to be his wife and daughter.

12. The FIR specifically attributes the applicant No. 1 having assaulted the informant with an axe on the left heel whereas he

attributes applicant No. 2 about having inflicted a blow of knife of his fingers / palm. The injury certificate shows that the informant did sustain injury with a sharp margins on the left heel caused by sharp object. However injury No. 6 is only a simple injury with irregular margins on the right index finger which is also simple in nature.

13. Considering all the aforementioned facts and circumstances, custodial interrogation of the applicant No. 1 seems imperative. Though some role can still be attributable to the applicant No. 2, considering the injury which can be said to have been inflicted by her which is not by a sharp weapon and not on a vital part, she deserves to be granted anticipatory bail.

14. Application is partly allowed. The application to the extent of applicant No. 1 - Pratibha is rejected.

15. The ad interim relief granted to the applicant No. 2 stands confirmed with the same terms and conditions.

(MANGESH S. PATIL, J.)