

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

925 ANTICIPATORY BAIL APPLICATION NO.1130 OF 2021

Ravindra @ Ravi onkar Patil

...Applicant.

VERSUS

The State of Maharashtra

...Respondent.

...

Mr. Amol S. Sawant , Counsel for the applicant
Mr. N.T.Bhagat, APP for the respondent-State

...

CORAM : PRAKASH D. NAIK, J.

DATE : 22nd OCTOBER, 2021

PER COURT:

1] The applicant is seeking anticipatory bail in connection with Crime No.0126 of 2021 registered at Shindakheda Police Station, Tq.Sindhkheda Dist.Dhule for the offences punishable under Sections 326, 504 and 506 read with Section 34 of Indian Penal Code (for short, 'IPC'). The First Information Report (for short, 'FIR') was registered on 19th August, 2021. Subsequently, Section 307 of IPC has been invoked.

2] The case of the complainant is that he knows the applicant and his son Hemant Patil. On 17-08-2021, while the complainant and his son's brother and his sons were in the courtyard, the co-accused Hemkant had abused and intimidated Yogendra. Thereafter, Yogendra was again abused. He was accompanied by the applicant. Hemkant

was armed with axe and he assaulted Yogendra on his head and hand. As a result of blow by weapon, Yogendra fell down and he sustained bleeding injury. The accused managed to flee away from the place of the offence. In pursuance to that, the FIR has been registered.

3] The applicant preferred application for anticipatory bail before the Sessions Court, which has been rejected by order dated 1st September, 2021.

4] The learned Counsel for the applicant urged that on account of animosity the applicant is falsely implicated in this case. No overt act is attributed to the applicant. The role of assault was attributed to the son of the applicant, who has been arrested and he is in custody. The co-accused (son of the applicant Hemkant) had also sustained injury in the nature of fracture and CLW. Reliance is placed on the copy of the injury certificate of Hemkant. The FIR is registered by the wife of the applicant against Yogendra and others, alleging that the son of the applicant Hemkant was assaulted and he had sustained injury.

5] Learned APP submitted that the applicant was present at the scene of offence. The assault was inflicted in connivance by both the accused. Considering the nature of injury sustained by the injured Yogendra, the offence has been altered to Section 307 of IPC.

6] Learned Counsel for the complainant submitted that the presence of the applicant at the scene of offence has been established. The act of assault is committed in furtherance of common intention. The applicant has participated in the offence. The FIR has been lodged from the applicant's side. The injured Yogendra had sustained serious injuries, which appears from certificate, which has been annexed to the application preferred by the complainant. He also relied on the photographs indicating the nature of injury sustained by the injured. He further submitted that the other son of the applicant is indulging in threatening the complainant and others. Complaints in that regard are forwarded to the police station on 12.10.2021 and 13.10.2021. Hence, this application may be rejected.

7] From the tenor of the FIR and the investigation papers, it is apparent that as alleged, the FIR has been registered for the offence punishable under Sections 326, 504 and 506 of IPC subsequently, it has been converted into under Section 307 of IPC.

8] Although, the applicant was present at the place of the incident, the role of assault has been attributed to Hemkant. He was allegedly armed with the weapon. Hemkant has been arrested and he is in custody. It is also relevant to note that cross complaint has been

registered from the applicant's side. The injury certificate relied upon by the applicant indicates that even Hemkant had sustained injury. It is true that the injured in the present case had sustained injuries and he is being undergoing treatment. However, specific overt act of assault attributed to the co-accused Hemkant, who is already in custody, the applicant need not be subjected to custodial interrogation. Hence, case for grant of anticipatory bail is made out. I pass the following order.

ORDER

- (i) Anticipatory Bail Application No.1130 of 2021 is allowed.
- (ii) In the event of arrest of applicant in connection with Shindakheda Police Station, Tq.Sindhkheda Dist.Dhule, the applicant be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall report to the Investigating Officer on 27, 28 and 29th October, 2021 and thereafter, as and when called for till filing of charge-sheet.
- (iv) Application stands disposed of.

(PRAKASH D. NAIK, J.)