

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

ANTICIPATORY BAIL APPLICATION NO.1157 OF 2021

**SOMNATH UTTAM BADHE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicants : Mr. Magar Pankajkumar S.
APP for Respondents : Mr. N. T. Bhagat
...

CORAM : P. D. NAIK, J.

DATE : 26th OCTOBER, 2021

PER COURT :

1. This is an application for anticipatory bail in Crime No. 260 of 2021 registered with Pachod Police Station, Aurangabad for the offence under Sections 341, 323, 324, 143, 147, 148, 149 and 504 of the IPC. The FIR was registered on 06-08-2021 by Babasaheb Sakharam Barase. Subsequently Section 326 of IPC has been invoked.

2. The complainant has alleged that the dispute is on account of the boundary line of the agricultural field between the applicants and complainant. On 29-07-2021 the applicants and the other accused had confronted the son of the complainant on the issue of boundary in the agricultural field. The accused were armed with sticks, iron rod and axe. The accused assaulted the complainant's son and his daughter. The injured persons were

treated in the hospital.

3. The applicants had preferred application for anticipatory bail before the Court of Sessions which has been rejected.

4. The FIR is registered vide Crime No. 245 of 2021 with the same police station on 30-07-2021 by Raosaheb Asaram Badhe (Applicant No.2) for offence under Sections 326, 324, 323, 341, 504, 506, 141, 143, 144, 147, 148, 149 of the IPC. In the said FIR it was alleged that there is a dispute in respect to the property between the applicants and the opponents. On 29-07-2021 the relatives of Raosaheb Badhe were present in the agricultural field and at that time Babasaheb Barase and others abused the complainant and others. Babasaheb Barase assaulted Raosaheb Badhe with sickle and caused injury to his lips. The other accused has assaulted with stick, iron rods and fist blows.

5. Learned advocate for the applicants submitted that the present FIR against the applicants has been lodged as a counter blast to the FIR lodged by applicant No.2. The FIR against the applicants was lodged belatedly on 06-08-2021. Applicant No.2 was hospitalised, he has sustained serious injuries, his lip was cut on account of the assault by the accused in the FIR lodged by him. The delay in lodging the FIR has not been explained, which speaks

volumes of doubts about the veracity of the version of the complainant. The co-accused Babasaheb Barase has been arrested and stick has been recovered. He has been released on bail. He relied upon the decision of the Apex Court in the case of **Siddharam Satlingappa Mhetre Vs. State of Maharashtra**.

6. Learned APP submitted that it cannot be said that the FIR lodged by the applicants is false. Injured were treated in the hospital. They were examined on the next day after the incident. Geeta has also sustained fracture injury. Thus, injury certificate corroborates the version of the complainant. Babasaheb Barase has also sustained four injuries out of which one is grievous.

7. It is apparent that there is a dispute between both the sides on account of the boundary line in the field. It is not clear as to why the FIR was registered on 06-08-2021, which is after the FIR lodged by the applicants. It is noted that applicant No.2 had sustained serious injury. In these circumstances, relief can be granted to the applicants in this application under Section 438 of Cr.P.C.

ORDER

- (i) The Anticipatory Bail Application No.1157 of 2021 is allowed.
- (ii) In the event of arrest of the applicants in Crime No. 260

of 2021 registered with Pachod Police Station, Aurangabad, they be released on bail on executing P.R. bond in the sum of Rs.25,000/- each, with one or more sureties in the like amount.

- (iii) The applicant shall appear before the Investigating Officer on 08-11-2021, 09-11-2021 and 10-11-2021, between 11:00 a.m. to 01:00 p.m. and thereafter as and when called for, till the filing of the charge-sheet.
- (iv) Application is disposed of.

(P. D. NAIK, J.)