

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
926 ANTICIPATORY BAIL APPLICATION NO.1173 OF 2021

1] AMOL VITHAL NAGARGOJE
2] YOGESH RAMDAS BADE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Sudarshan J Salunke
APP for Respondents: Mr. S.B. Narwade
Advocate to assist APP : Mr. Sayyed Tauseef Yaseen

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CORAM : PRAKASH D. NAIK J.

DATE : 22ND OCTOBER, 2021.

PER COURT:

1] This is an application for anticipatory bail in Crime No. 112 of 2021 registered with Shirur Kasar Police Station, Dist. Beed, for the offence punishable under Sections 307, 327, 323, 504, 143, 147, 148, 149 of IPC.

2] The FIR was registered on 26.8.2021 by Sher Khan Samsher Khan Pathan. It is alleged that on 25.8.2021 at about 7.00 p.m., the complainant and his nephew Agakhan Pathan were distributing money to the labourers. At that time, Iliyas Pyaremiya Shaikh, Saddam Pyaremiya Shaikh, Amol Nagargoje, Uddhav Nagargoje and Yogesh Bade alighted from the car and questioned the complainant and his nephew. Iliyas Pyaremiya Shaikh took out a sword from the Scorpio car and assaulted Agakhan Ayub Khan Pathan on his head. The complainant pulled his nephew to avoid the blow. Saddam Shaikh pushed and assaulted the nephew by iron pipe on his head. Uddhav took away an amount of Rs. 42,000/-. Uddhav also assaulted them with iron stick. Amol Nagargoje assaulted Agakhan by pressing his neck and then with fist and kick blows. Yogesh Bade assaulted Agakhan with wooden stick. On hearing their shouts persons from the village came to the spot and they were rescued. Accused left

the spot in their vehicle. The complainant and other approached the police. FIR is registered. Agakhan was taken to the hospital for medical treatment.

3] The learned counsel for the applicants submitted that the role of assault by sword is attributed to Illiyas. Role of assault by iron pipe and stick and taking amount of Rs. 42,000/- is attributed to accused Uddhav. All the applicants were arrested and out of them Saddam and Uddhav were granted bail. Although bail was granted to Saddam on medical grounds, there is an observation in the order granting bail that the chances of escalation of the offence are remote. The role attributed to applicant No.1 Amol is that he had pressed the neck of Agakhan and also assaulted by fist and kick blows. Yogesh had assaulted Agakhan by stick. Assault on vital part of the body of injured Agakhan is attributed to other accused. The complaint itself mentions that on account of previous dispute, the present incident had occurred.

4] The learned APP submitted that the applicants have participated in the offence. Agakhan had sustained serious injuries. He is still taking treatment in the hospital. One case is registered against both the applicants for the offence under Section 326. Looking to the nature of the injuries sustained by injured Agakhan, anticipatory bail may not be granted to the applicants.

5] The learned advocate for the complainant reiterated the submissions of learned APP. In addition, it is submitted that both the applicants are attributed overt acts. He relied upon the medical case-papers of Agakhan and submitted that he has sustained serious injuries. Applicants' participation is evident from the FIR. It is submitted that at this stage, role of the applicants cannot be bifurcated. Both of them had participated in the assault. Reliance is placed on the judgment of the Apex Court in the case Prakash Singh Rajput Vs. State of M.P. and another, delivered on 8th October, 2021, reported in Live Law 2021 SC 566.

6] I have perused the FIR and the investigation papers produced by the APP. It is relevant to note that co-accused Iliyas, Saddam, Uddhav were arrested and amongst them, Saddam and Uddhav are on bail. I have perused the statement of the complainant and injured Agakhan. The role attributed to applicant Amol is that he had pressed the neck of Agakhan and also involved in the assault. Applicant No.2 Yogesh was involved in the assault on Agakhan and complainant by stick. I have also perused the injury certificate. Author of alleged injuries is co-accused who has been already arrested. Looking to the overt act attributed to the applicants, custodial interrogation of the applicants is not necessary. Hence, the following order.

: ORDER :

[i] ABA No. 1173 of 2021 is allowed.

[ii] In the event of arrest of the applicants in connection with Crime No. 112 of 2021 registered with Shirur Kasar Police Station, Dist. Beed , the applicants be enlarged on bail on furnishing PR Bond in the sum of Rs. 25,000/- each, with one or two sureties in the like amount.

[iii] The applicants shall appear before the I.O. on 26th, 27th, 28th of October, 2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called by the I.O. till filing of charge sheet.

[iv] The applicants shall not tamper with the evidence and shall not hamper the investigation.

[v] The applicants shall not enter into village Manur, Taluka Shirur Kasar, Dist. Beed till the end of December, 2021, except for attending the police station, as stated above.

[vi] The application stands disposed of.

[PRAKASH D. NAIK]
JUDGE

grt/-