

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

917 ANTICIPATORY BAIL APPLICATION NO.1188 OF 2021

**BABU SHRIHARI KAKADE @ CHANDRASEN GIRDHARI KAKADE
VERSUS
THE STATE OF MAHARASHTRA**

...
Mr. Dnyaneshwar B.Pokale, Counsel for applicant
Mr. A.S.Shinde, APP for Respondent-State

...
CORAM : PRAKASH D. NAIK, J.

DATE : 24th NOVEMBER, 2021

PER COURT:

1] The applicant is seeking pre-arrest bail in Crime No.0229 of 2020 registered with Georai Police Station, Dist.Beed for offences under Sections 307, 326, 324, 323, 143, 147, 148, 149, 120-B, 504 and 506 of Indian Penal Code (for short, 'IPC') and under Sections 4 and 25 of Arms Act.

2] The First Information Report (for short, 'FIR') was registered on 13th May, 2020 at the instance of Amol Santram Pawal. It is alleged that Ashok Gavane, Yogesh Gavane, Nitin Gaike, Ganesh Kale, Sonu Khade, Shriram Gavane, Babu Shrihari Kakde and Ganesh Gavane had visited the house of complainant. He was abused by Ashok Gavane. The complainant was assaulted by sword by Ashok Gavane. Yogesh Gavane assaulted father of the complainant with sword. Nitin Gayke

had assaulted with iron rod. The other accused had assaulted and abused the complainant and others.

3] On perusal of the FIR, it appears that specific role of assault has not been attributed to the applicant. Supplementary statement of the complainant was recorded. His statement was also recorded under Section 164 of Code of Criminal Procedure (for short, 'Cr.P.C.'). In both these statements, it was alleged that the applicant had assaulted the brother of complainant by iron rod giving blow on his left hand. Statement of the complainant's brother Babu Pawal was recorded on 28th May, 2020. In the said statement, role of assault by wooden log on his left hand was attributed to another accused. The applicant had allegedly abused and threatened him. His supplementary statement was recorded on 8th July, 2020 and in the said statement, it was alleged that the applicant had assaulted him with wooden log on his left hand, which has resulted in fracture.

4] Learned APP submits that the version of the complainant reflected in the statement under Section 164 of Cr.P.C. has to be looked into. In the said statement, role has been attributed to the applicant of having assaulted the brother of the complainant with iron rod.

5] It is pertinent to note that in the FIR, the role attributed to the applicant is vague. In the supplementary statement and the statement recorded under Section 164 of Cr.P.C., the complainant has stated that the applicant had assaulted with iron rod on the left hand of his brother. Statement of the brother recorded under Section 161 of Cr.P.C. does not attribute role of assault to the applicant. Whereas, it was stated by him that the other accused have assaulted on his left hand. Whereas in the supplementary statement, he has stated that the applicant had assaulted him with stick on his hand. Thus, apparently, there are variations in respect of role attributed to the applicant. The alleged overt act of assault has been referred to in the subsequent statement. There are also contradictions in respect to the nature of the weapon used by the applicant in assaulting the complainant's brother.

6] In view of the above, the application deserves to be allowed. Hence, I pass the following order.

ORDER

- (i) Anticipatory Bail Applications No.1188 of 2021 is allowed.
- (ii) In the event of arrest of applicant in connection with Crime No.0229 of 2020 registered with Georai Police Station, Dist. Beed, the applicant be released on bail on his executing PR. Bond in the sum of Rs.25,000/- each, with one or two sureties in the like amount.

- (iii) Applicant shall report Investigating Officer on 1st, 2nd and 3rd December, 2021 between 11.00 am to 01.00 pm and thereafter, as and when called for, till filing of charge-sheet.
- (iv) Application stands disposed of.

(PRAKASH D. NAIK, J.)

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