

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

ANTICIPATORY BAIL APPLICATION NO.1212/2020

1] GOPAL S/O PRALHAD KHEDEKAR

2] RAVINDRA S/O PRALHAD KHEDEKAR

VERSUS

THE STATE OF MAHARASHTRA

....

**Advocate for Applicants : S.J.Salunke
A.P.P for respondent State : P.G.Borade
Advocate to assist A.P.P : P.A.Bhosale**

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**CORAM : MANGESH S. PATIL, J.
DATE : 25.01.2021**

PC. :-

This is an application under Section 438 of the Cr.PC.

2] In substance, the allegations leading to the filing of the F.I.R. and registration of the crime are to the effect that father of the applicants who happens to be the brother of the informant and the other injured Baliram alongwith the applicants attempted to get executed and registered certain documents from the mother of informant and his sister. Sensing something fishy the informant, Baliram and their family members went in search of the applicants, their father Pralhad, informant's mother and sister. It is alleged that keeping the women in dark some writing was attempted to be got executed. Having seen the applicants making such attempt the informant and Baliram tried to question them whereupon a scuffle broke out and Pralhad is

stated to have caused fracture injuries to informant and Baliram with a stone tied in a scarf.

3] Apart from the allegations in the F.I.R. there is a statement of Baliram attributing applicant Gopal with an assault at him with a stick.

4] The learned advocate for the applicants submits that in the F.I.R. the only role attributed to and the fracture injuries sustained by the informant and Baliram are referable to the act which is attributed to the father of the applicant by name Pralhad. No allegation has been levelled against the applicants in the F.I.R. Even the weapon said to have been used by Pralhad does not fit in the category of a weapon. Already this Court has protected the applicants by way of ad-interim relief and there are no allegations about any having breached the conditions. The ad-interim relief be confirmed.

5] The learned A.P.P. opposes the application. He submits that even against Gopal there are allegations. Baliram has stated about Gopal having assaulted him with stick on head and back. The injury certificate of Baliram confirms such allegation. He would further point out that even in the statement of mother Rambai, she has alleged about applicant Gopal having carried out assault with a stick. He would therefore submit that since a specific role is attributed to Gopal and even the weapon has been described anticipatory bail be refused to him.

6] I have carefully gone through the papers. Suffice for the purpose to observe that alongwith the applicant even their father submitted application for anticipatory bail which is now being sought to be withdrawn.

7] As far as the role being attributed to the applicants is concerned, it is apparent that the F.I.R. does not state anything about the applicants much less in assaulting the informant and Baliram. Though there is statement of Baliram and the injury certificate *prima facie* is compatible with the allegations in that statement, the injuries referable to the assault on the head and back are not grievous. Even the weapon stated to have been used by Gopal is a stick.

8] So far as mother Rambai is concerned, she has vaguely asserted that even Gopal had carried out assault with a stick, without giving any particulars as to whom had he assaulted to.

9] The allegations as against the applicant no.2 are available only in the statement of Baliram stating to have carried out assault with fists and kicks.

10] Considering the fact that there was no premeditation in carrying out assault, custodial interrogation of the applicants does not seem to be imperative in the facts and circumstances discussed hereinabove.

11] The application is allowed. Ad-interim anticipatory bail granted by order dated 24/12/2020 stands confirmed with the same terms and conditions.

[MANGESH S. PATIL, J.]