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

919 BAIL APPLICATION NO.1407 OF 2021

YOGESH GANPAT DAUD
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Kolhe Mukund L.
Mr. AM Phule, APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI,J.
DATE : 9th December, 2021

PER COURT :-

1. Present application has been filed under Section 439 of Cr.P.C. The applicant has been arrested in connection with CR No.360/2021 registered with Bhokardan police station, District Jalna, for the offences punishable under sections 329, 323, 504, 506 read with 34 of IPC.

2. Heard learned Advocate for the applicant and learned APP for Respondent-State. In order to cut short it can be stated that both of them have made submissions in support of their respective contentions.

3. At the outset, the prosecution story runs as follows, -

. That, the applicant and his friend had come to a Dhaba at Dagadwadi Phata for drinking liquor on the motorcycle belonging to the informant. He initially states that at about 8.00 pm, he and his friend found that the Dhaba was closed and they went home. He then says that the Dhaba owner Yogesh Dound, i.e. the present applicant, along with two others, came to his house at about 9.00 pm and took the informant as well as his friend under the pretext that they have work with them. They were again taken to same Dhaba, where the applicant started saying that he has information that the informant and his friend has caused damage to green-net of the Dhaba and then those three persons, i.e. present applicant and other two persons, along with him, started assaulting the informant and his friend - Shivaji. Present applicant gave blow of the stick on the left wrist of the informant and caused him fracture. They were abused and thereafter the applicant took the key of motorcycle of the informant and told him that till he makes the

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damage good, caused to the applicant, he will not return the vehicle and thereafter the motorcycle was taken away by the applicant. The informant says that he came to home by walk, but his friend Shivaji was lying there in injured condition. On the next day, the informant went to hospital, took treatment and went to the police station to lodge the report.

4. At the outset, it is doubtful as to whether offence under Section 329 of IPC has been made out in this case. It appears that the applicant was under impression that the damage to his green-net has been caused by the informant and his friend and, therefore, he was demanding compensation or asking him to make good the damage caused to him. Further, certainly in view of the allegation that fracture was caused with stick and also that his vehicle was taken away by the applicant, without his consent, though Section 379 of IPC has not been added, there is scope to add the same. Possibility of transpiring of Section 324 or 326 of IPC cannot be ruled out. But then the applicant is behind the bars since 16.10.2021.

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Sufficient opportunity was available to the Investigating Officer to investigate the crime in all respects. Further physical custody of the applicant is not required and, therefore, he deserves to be released on bail. Hence, following order, -

ORDER

- i. The application stands allowed;
- ii. The applicant - YOGESH GANPAT DAUD be released on bail in connection with CR No.360/2021 registered with Bhokardan police station, District Jalna, for the offences punishable under sections 329, 323, 504, 506 read with 34 of IPC on PR bond of Rs.50,000/- (Rupees fifty thousand) with two solvent sureties of Rs.25,000/- each;
- iii. Along with submitting the bail papers before the learned Trial Judge, the applicant shall give his complete address of the place of residence where he intends to reside till end of the trial.
- iv. The applicant shall also give the said information to the Investigating officer along with mobile number and

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shall comply with the requirements set out in Para No.12 (1) to (6) of Chapter-I of Criminal Manual, whichever are applicable.

v. The applicant shall not indulge in any criminal activity nor shall tamper with the prosecution evidence in any manner.

vi. Bail before the Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV