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

926 ANTICIPATORY BAIL APPLICATION NO.1420 OF 2021

- 1] Dilip Abhimanyu Dhotre
- 2] Rahul s/o. Abhimanyu Dhotre
- 3] Abhimanyu @ Abhiman s/o. Rajaram Dhotre. ... Applicants.

VERSUS

The State of Maharashtra. ... Respondent.

...
Advocate for Applicants : Mr. Sudarshan J Salunke
APP for Respondents: Mr. A.V. Deshmukh.

CORAM : PRAKASH D. NAIK.

DATE : 16th DECEMBER, 2021.

PER COURT:

1] The applicants are apprehending arrest in connection with Crime No. 408/2021 registered with Ambaogai City Police Station, District Beed for the offences under Section 307, 324, 504, r/w 34 of the Indian Penal Code.

2] Incident in question had occurred on 13th August, 2021. The complainant has alleged that applicant No.3 had assaulted him by iron rod by giving blow on his head. He had sustained serious injury on account of the blow. Applicant No.2 had also assaulted by stick on hands and head. Accused also assaulted Satnamsing Junni by stick and iron rod. Complainant was admitted to Hospital and after regaining consciousness he lodged the FIR on 20.10.2021.

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3] Applicants had lodged FIR against the complainant/opponents on 31st August, 2021 and the offences were registered vide Crime No.338/2021 or the offences under sections 302, 324, 323, 427, 143,147, 148, 149 of the Indian Penal Code and Section 4 r/w 25 of the Arms Act.

4] Order passed by the learned Sessions Judge rejecting the application for anticipatory bail indicates that the FIR was lodged after a period of 50 days and reason given was that the complainant/ injured was admitted in the hospital for treatment of the injuries sustained by him and after recovery he lodged the complainant. However, it does not indicate the nature of injury suffered by the complainant. It is pertinent to note that one person from applicants' side succumbed to the injury and FIR was registered under section 302 IPC.

5] The learned APP submitted that the applicant No.3 has been attributed specific overt act of assaulting informant - Deepak Tak by iron rod which has resulted in grievous injury. There are eye witnesses to the incident. Weapon is required to be recovered.

7] It is pertinent to note that the FIR was registered at the instance of the applicant vide Crime No. 338 of 2021. Brother of applicant Nos. 1 and 2 was assaulted by the informant in the present case and another with knife by giving blows on his chest and abdomen resulting in his death and the offence was registered under section 302 of IPC. The incident in question had occurred in front of the house of the applicant. There is every possibility that the opponent was assaulted in exercise of right of private defence. The FIR filed at the

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instance of applicant No.1 against the opponent also indicate that the applicant Nos. 2 and 3 were assaulted by sticks.

8] In view of the above, the applicants are entitled for relief under section 438 of Cr.P.C.

O R D E R

- i] ABA No.1420 of 2021 is allowed.
- ii] Interim order dated 3rd December, 2021 is confirmed.
- iii] In the event of arrest of the applicants in Crime No. 408 of 2021, registered with Ambajogai City Police station, District Beed, the applicants be released on executing PR Bond in the sum of Rs. 20,000/- each with one or more sureties in the like amount.
- iv] The applicants shall appear before the I.O. on 27th , 28th , 29th December, 2021 between 11.00 a.m. to 1.00 p.m. and thereafter, as and when called till filing of charge sheet.
- v] The application stands disposed of.

[PRAKASH D. NAIK]
JUDGE.

grt/-