

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

1010 BAIL APPLICATION NO.1472 OF 2021

**BHAUSAHEB GOPICHAND SAIDANE (KOLI) AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA**

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Mr. V.D. Hon, Senior Counsel i/b Mr. A.V. Hon, Advocate for applicants
Mrs. V.N. Patil-Jadhav, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 22th DECEMBER, 2021

PER COURT :

1 Present application has been filed under Section 439 of the Code of Criminal Procedure by the accused Nos.1 and 9, who have been arrested in Crime No.244/2021 dated 13.10.2021 registered with Sindkheda Police Station, Dist. Dhule for the offence punishable under Section 307, 452, 143, 147, 148, 149, 323, 504, 506, 427 of the Indian Penal Code, 1860.

2 Heard learned Senior Counsel Mr. V.D. Hon instructed by learned Advocate Mr. A.V. Hon for applicants and learned APP Mrs. V.N. Patil-Jadhav for the respondent.

3 Perusal of the First Information Report lodged by one Milind Devidas Sonwane, who is a Legal Practitioner by profession would reveal that he had taken some photographs of the persons who were illegally excavating sand and then he had given complaint to the Collector in respect of said illegal excavation. He states that on 13.10.2021 at about 9.00 a.m. all the accused persons went to his house and started quarreling with him. It was on the point that he was making complaint about the illegal excavation. As regards the present applicant No.1 is concerned, the informant states that he had assaulted the informant with intention to kill him by gupti. However, the informant ducked and went aside. As a result of which he received the injury by the tip of the gupti to the ring finger of the left hand, which was bleeding injury. Thereafter, all the accused persons were threatening and abusing him. He thereafter states that when he was about to close the door those accused persons came inside with sticks and iron rod and they damaged the articles in the house and also assaulted his father.

4 The applicant No.1 came to be arrested on 14.10.2021 and applicant No.2 came to be arrested On 13.10.2021. It appears that substantial part of the investigation is over. From the spot itself iron rod, wooden stick, spade, one more iron rod and stone has been recovered. It also appears that till 15.10.2021 the present applicants was in police custody.

However, it appears that there is no recovery of gupti. The injury certificate of the informant would show that he had sustained three injuries. One is abrasion to left ring finger and it is stated that the probable weapon that would have been used is blunt object, it was bleeding and the nature was simple. The other two injuries are bruise, one is on back and the another is on the right hand, probably caused by blunt object and the nature is stated to be simple. As regards the injuries to the father of the informant is concerned, they were two in number, which were bruises; one was around right eye and another over back, probably caused by blunt object and the nature is simple. Thus, taking into consideration the injury certificates and the statements, it will have to be considered by the Trial Court as to whether ingredients of Section 307 of the Indian Penal Code are attracting or not. At this stage, if we consider the injury certificate of the informant only, then, the injury allegedly caused by gupti is to the left ring finger.

5 It also appears that there was a cross complaint filed against the informant by the present applicant No.1 on 15.10.2021, that is, when he was in the police custody in respect of incident allegedly taken place on 13.10.2021. No doubt, he states that he had gone to the house of the informant at about 9.00 a.m., as he had received information from the informant that he has certain photographs of the Tractor belonging to the

applicant No.1 and then he says that he and the other persons were assaulted and, therefore, that First Information Report has been filed under Section 324, 323, 504, 506 read with Section 34 of the Indian Penal Code.

6 Some of the co-accused have been released by this Court on anticipatory bail.

7 Learned APP while objecting the application submits that even after the lodging of the First Information Report one more complaint was filed by the informant with the Police Station on 23.10.2021, stating that the accused persons named in that complaint had given him threats on 23.10.2021. It is to be noted from the copy of the said complaint that it is not against the present applicants, as the applicants are in jail since 13.10.2021 and 14.10.2021.

8 Taking into consideration the fact that substantial part of the investigation is over, the weapons except gupti have already seized and there was sufficient opportunity to seize the gupti allegedly used in the commission of the crime. The applicants deserve to be released on bail on stringent conditions. Hence, following order.

ORDER

1 Application stands allowed.

2 Applicants viz. 1) Bhausahab Gopichand Saidane (Koli) and 2) Prakash Bhimrao Koli, who have been arrested in Crime No.244/2021 dated 13.10.2021 registered with Sindkheda Police Station, Dist. Dhule for the offence punishable under Section 307, 452, 143, 147, 148, 149, 323, 504, 506, 427 of the Indian Penal Code, 1860, be released on P.R. of Rs.50,000/- (Rupees Fifty Thousand only) each with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand only) each.

3 The applicants shall not tamper with the evidence of the prosecution, in any manner.

4 They shall not indulge in any criminal activity.

5 If they commit any breach of above terms of bail, the prosecution is at liberty to move the Trial Court under Section 439(2) of the Code of Criminal Procedure for cancellation of bail.

6 They shall not enter the jurisdiction of Sindkheda, Tq. Sindkheda, Dist. Dhule till the conclusion of trial. They should reside elsewhere, and before submission of bail papers, the applicants should give complete address of his proposed residence with their mobile number to the Investigation as well as to the Trial Court. So also they should comply with the requirements under paragraph Nos.12 (1) to (6) of Chapter I of Criminal Manual, (whichever are applicable).

7 Bail before Trial Court.

(Smt. Vibha Kankanwadi, J.)

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