

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

ANTICIPATORY BAIL APPLICATION NO. 1490 OF 2021

1. Radhakisan s/o. Manik Phad
 2. Aadinath s/o. Radhakisan Phad
- ...Applicants.**

Versus

The State of Maharashtra

....Respondent.

...
Mr. A.V. Tombre, Advocate for applicants.
Mr. A.S. Shinde, APP for respondent/State.
...

CORAM : PRAKASH D. NAIK, J.
DATED : 20/12/2021.

PER COURT :

1. The First Information Report (for short "F.I.R.") was registered on 18th June 2021 with Pimpalner Police Station, District Beed for the offences under Sections 365, 326, 506, 341 read with Section 34 of the Indian Penal Code.

2. The complainant has alleged that on 29th March 2021, while he was proceeding on his two wheeler towards Beed, the applicants stopped him and questioned him for his visit in the area. Aadinath Phad (applicant No. 2) assaulted him by iron pipe on his head. Applicant No.1 assaulted him with the handle of spade on his head with intent to kill him. Applicant No.2 took him in the cowshed

situated in the agricultural field and tied his legs with rope. He was again assaulted by applicant No. 1 and threatened of dire consequences. The villagers rescued him. Police vehicle had arrived at the spot and he was taken to the police station. Thereafter he was taken for treatment through police vehicle. He was admitted in the hospital. After undergoing treatment for three days, he was discharged from the hospital. When his relatives visited him, he had informed them about the incident. Since applicant No. 1 had threatened him that he would be killed, he did not lodge the complaint.

4. It appears that the incident had occurred on 29th March 2021 and the F.I.R. was lodged on 18th June 2021. The complainant has stated in the F.I.R. that after the assault he was taken to police station by the police in their vehicle and then admitted to the hospital. Surprisingly no complaint was lodged with the police. The explanation of the complainant is that, he was threatened by applicant No. 1. Complaint also mentions that the relatives of the informant also visited him and he had informed them about the incident. However, the complaint was lodged after a period of two and half months.

5. Learned APP submits that there are eye witnesses to the incident and due to fear the complainant did not lodge the F.I.R. The complainant had suffered injuries. Specific role has been attributed to

the applicants.

6. Learned advocate for the applicants submitted that there are no criminal antecedents against the applicants. They are falsely implicated in this case. There is no explanation for inordinate delay in lodging F.I.R. It has been lodged after about two and half months.

7. Medical Certificate shows that complainant had suffered one injury on head which is of simple nature by sharp and hard weapon. The two other injuries are abrasions which are also simple. Prosecution has not explained as to why two and half months were required to lodge the complaint. All the injuries suffered by the complainant were of simple nature. There is every likelihood that the applicants are falsely implicated. In the result, I pass the following order.

ORDER

- i. ABA No. 1490/2021 is allowed.
- ii. In the event of arrest of applicants in Crime No. 138/2021 registered with Pimpalner 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.
- iii. The applicants shall report the Investigating Officer on

27th, 28th and 29th December, 2021 between 11.00 a.m. to 1.00 noon.

- iv. The applicants shall not tamper with the prosecution evidence.
- iv. The application is disposed of.

[PRAKASH D. NAIK, J.]

ssc/