

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.952 OF 2020

1. Anil Jaising Kadam,
2. Ganesh Subhash Dhanawade, &
3. Bajarang Prakash Shikhare. Applicants

Versus

1. The State of Maharashtra, &
2. Balu Ashok Jadhav. Respondents

Mr. Sanjeev P. Kadam, Advocate for the Applicants.

Mr. H.J. Dedhia, APP for the Respondent-State.

Mr. Kuldeep Nikam, Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 23rd FEBRUARY, 2021

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.358/2020 registered at Koregaon Police Station, District-Satara on 21.11.2020 under Sections 307, 341, 143, 147, 148, 149, 504 & 506 of the Indian Penal Code and under Section 25 of the Indian Arms Act.

2. Heard Shri Sanjeev P. Kadam, learned Counsel for the Applicants, Shri H.J. Dedhia, learned APP for the State and Shri Kuldeep Nikam, learned Counsel for Respondent No.2.

3. Pursuant to the earlier order dated 22.12.2020, learned Counsel for the Applicants have filed their affidavit dated 20.1.2021 which is already on record.

4. Today, learned Counsel for the intervenor has filed affidavit of respondent No.2 Balu @ Balasaheb Jadhav, which is taken on record.

5. The FIR is lodged vide C.R. No.358/2020 by one Balu Ashok Jadhav on 21.11.2020. He has stated that he has a dispute regarding a piece of land with the Applicant-Anil Kadam. On the day of the incident, at about 5:00 p.m., the informant was telephonically told by his friend Vijay Jadhav that informant's brother Shankar Jadhav was being assaulted by some people. He went to the spot. He saw that all the Applicants and 4-5 others, who were named in the FIR, were assaulting his brother Shankar Kadam. The Applicants Anil and Bajrang were having sword, the Applicant Ganesh was having a revolver. It is alleged that the informant Balu Jadhav was given blow with sword on his head. One Shankar Madane who was informant's friend was also assaulted by the

Applicants Bajarang and Anil. After that the others intervened. Thereafter the Applicants went away. On this basis, the informant lodged his FIR.

6. Shri Kadam, learned Counsel for the Applicants submitted that the Applicant-Anil himself had lodged his own FIR vide C.R. No.360/2020 at the same police station on 22.11.2020 at 3:20 p.m. under Section 326 of IPC and other offences. He submitted that looking at the nature of the injuries suffered by the Applicants' group, the story narrated by the informant Balu Jadhav, in his own FIR, is not true. The Applicants are falsely implicated and they deserve the order of anticipatory bail.

7. Learned Counsel for the intervenor submitted that there was a long standing dispute and the Applicants' group is constantly harassing the victim. He submitted that the informant's brother has suffered grievous injuries which are narrated in the medical certificate and, therefore, anticipatory bail should not be granted to the Applicants. Learned A.P.P. relied on the averments in the FIR as well as the medical

certificate regarding the injuries suffered by the informant's group to oppose this application. He also produced the injury certificate regarding the injuries suffered by the Applicants' group.

8. I have considered all these submissions. Considering both the FIRs, it is clear that some incident had taken place at that spot at that time on 21.11.2020. The informant Balu Jadhav's brother Shankar has suffered three injuries, which are as follows :

- (i) CLW over left wrist joint & palm of dimensions 8 cm x 5 cm x 3 cm. It is described as grievous injury and there was little finger sensory loss;
- (ii) CLW over occipito-parital region of dimensions 6 cm x 1 cm x 1 cm. It is described as simple injury; and
- (iii) The sutured wound to right hand fingers.

9. Shankar Madane has suffered five injuries. All of them are described as simple injuries. They were in the nature of contusions and abrasions. There is one CLW over upper lip

it is also simple injury.

10. As against this, the Applicant-Bajarang has suffered following three injuries:

- (i) Incised wound on right upper scapulary region of dimensions 10 cm x 0.3 cm x 0.5 cm;
- (ii) Incised wound on left lower scapulary region of dimensions 8 cm x 0.2 cm x 0.3 cm; and
- (iii) Superficial incised wound on vertex area of dimensions 2 cm x 0.1 cm x 0.1 cm.

11. The Applicant-Anil has suffered following three injuries:

- (i) Superficial incised wound on right side of frontal lobe of dimensions 5 cm x 0.1 cm;
- (ii) Incised wound on left thigh of dimensions 7 cm x 0.2 cm x 0.5 cm; and
- (iii) Incised wound on right forearm of dimensions 7 cm x 0.2 cm x 0.3 cm.

12. The injuries suffered by the Applicants, though, are described as simple injuries, their length is big and they are caused by sharp weapons. This aspect is not explained or referred to by the informant Balu Jadhav in his FIR. Thus there is reason to believe that his version in his own FIR is exaggerated and there is scope to believe that the Applicants had reasonable apprehension in their minds that serious injuries would be caused because in fact some injuries with sharp weapons are caused which are of 10 cm, 2 cm and 7 cm in length. In this view of the matter, there is a possibility that the Applicants had a right to private defence. There was a long standing enmity between the present Applicants and the first informant's group. In this background, the custodial interrogation of the Applicants is not necessary. Their version is also probable. Their arrest would cause irreparable harm to them in future. However, considering the constant fight between the two groups, certain conditions are required to be imposed on them. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.358/2020 registered at Koregaon Police Station, District-Satara, the Applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (ii) The Applicants shall attend the concerned police station every fortnight for a period of one year from today.
- (iii) The Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)