

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

ANTICIPATORY BAIL APPLICATION NO. 378 OF 2021

1. Pankaj Shankar Madhwai
2. Rajenedra Shanaram Madhwai
3. Sandip Bhagwat Thombare
4. Santosh Tabaji Daude
5. Sainath Bhagwat Sambare
6. Vijay K. Gaikwad Applicants

Versus
The State of Maharashtra Respondent

Mr. Rameshwar N. Gite, for the applicants.
Mr. S.H. Yadav, APP for the State/Respondent.
Mr. Aniket Nikam a/w Ashish Satpute a/w Vivek Arote, for
Intervenor.
PSI Shriram Shinde, Yeola Police Station present.

CORAM: SARANG V. KOTWAL, J.
DATE : 9th FEBRUARY 2021

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No. I-27 of 2021 registered at Yeola Police Station, District Nashik, on 19/1/2021 under sections 326, 324, 354, 143, 147, 148, 149 of the Indian Penal Code.

2, The FIR is lodged by one Sachin Bhor. He has stated that there was a dispute between the informant's family and his relative Balasaheb Madhwai. On 19/01/2021, at about 10.00 p.m. when the informant and his wife were working in an agricultural field, all the accused including the present applicants came there and they straightaway started beating the informant and his wife with iron rods. There are allegations that the applicants Santosh Daude, Shankar Madhwai, Shantaram Madhwai, Rajendra Madhwai and Pankaj Madhwai torn informant's wife clothes. They damaged CCTV camera, LED T.V. and a two wheeler. It is alleged that in the incident injured suffered serious injury to his thumb. On this basis the FIR is lodged.

3. Heard Mr. Rameshwar Gite, learned Counsel for the applicants, Mr. S.H. Yadav, learned APP for the State and Mr. Aniket Nikam, learned Counsel for intervenor.

4. Learned Counsel for the applicants submitted that there was a long standing dispute between the parties and therefore this false FIR is lodged against the present applicants. He submitted that the informant's group was in the habit of destroying applicants' crop and in fact the informant's group was pressurizing them all the time.

5. Learned Counsel for the intervenor submitted that FIR clearly makes out the case of outraging of modesty atleast against the present applicants and also offence under section 326 of the Indian Penal Code because there was fracture of his thumb.

6. Learned APP relied on the investigating papers.

7. I have considered all these submissions. The informant has suffered two injuries. One was blunt trauma and the other was fracture at the base of thumb. Undoubtedly, thumb injury is grievous injury but it is not

attributed to any of the applicants particularly. The FIR also does not mention that any of the accused had caused this injury with any weapon. The informant's wife has not suffered any injury. At least, her injury certificate is not in the investigation papers. Spot panchnama shows that there was no damage. In fact, it is clearly mentioned that there was no evidence of the damage at the spot. Spot panchnama is thus not corroborating informant's story. Besides this, there are statements of independent eye witnesses. Their statements merely mention that the applicants' group was beating, abusing and threatening the informant and his wife. There is no reference to any incident of outraging the modesty or damage to the property.

8. From the investigating papers, it appears that, version in the FIR is exaggerated. No specific role of causing fracture to the informant is attributed to any of the applicants. The allegation of outraging modesty is not supported by the independent eye witnesses.

9. In these circumstances, I am inclined to protect the applicants by way of order under section 438 of Cr.P.C. Considering the previous dispute between the parties, some conditions are required to be imposed on the applicants.

10. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R. No. I- 27 of 2021 registered with Yeola Police Station, District Nashik, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each with one or two sureties each in the like amount.
- (ii) The Applicants shall attend the concerned Police Station once in a fortnight till filing of the charge-sheet and thereafter once in every month for a period of one year after filing of the charge-sheet.

- (iii) Applicants shall not in any manner cause harassment to the informant and his family.
- (iv) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)