

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

ANTICIPATORY BAIL APPLICATION NO. 391 OF 2021

1. Vijay Kedarnath Tiwari
2. Sanjay Kedarnath Tiwari ... Applicants

V/s

The State of Maharashtra ... Respondent

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Ms. Mallika Ingale, Advocate for the Applicants.

Ms. Veera Shinde, APP for the Respondent – State.

Mr. Yogesh R. Pawar (A.P.I.) Dahisar Police Station, Mumbai, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 12th FEBRUARY, 2021

PER COURT:

1. The applicants are apprehending arrest in C.R. No. 20 of 2021 registered with Dahisar Police Station, Mumbai for offences punishable under Sections 326, 324, 504, 506 r/w Section 34 of Indian Penal Code (for short “IPC”).

2. The case of the prosecution is that on 17th January, 2021 Deepak Modkale @ Lalu was quarreling with his father. They were abusing each other. Hearing their noise, the complainant came out of the house and tried to pacify them. Sister of Deepak Modkale was present. Complainant told her to take Deepak, away from the spot. The complainant also walked with them towards D.N. Dubey Road.

The complainant was returning home, he saw Sanjay Tiwari, Vijay Tiwari, Ajju Upadhyay and Santosh Upadhyay. They questioned him as to why they are shouting under influence of liquor. The complainant told them that Deepak Modkale and his father were abusing each other. Vijay Tiwari picked up the tile from the spot and assaulted the complainant on his head. Sanjay Tiwari picked up the pipe and assaulted him on his head and back. Ajju Upadhyay assaulted him with rod. Police reached the spot. First Information Report (for short 'FIR') was registered by complainant Piyush Patel on 18th January, 2021.

3. The applicants preferred application for anticipatory bail before the Sessions Court. The said application was rejected by order dated 4th February, 2021.

4. Learned advocate for the applicants submitted that Deepak Modkale and his son were quarreling with complainant. The complainant was under influence of liquor. He was abusing people in loud voice. The applicants told him to leave the place. The complainant threatened them. He assaulted applicant No.2 with sharp blade on his neck. The complainant inflicted another blow which cause injury to applicant No.1. The complainant then wielded blade towards the public and threatened them. Ajju, Upadhyay,

Santosh Upadhyay and Brijesh Tiwari also sustained injuries. The applicants were removed to hospital for treatment. The applicant No.1 lodged complaint against Piyush Patel (complainant). The FIR was registered vide C.R. No. 19 of 2021 for offences under Sections 307, 326, 504, 506, 324 of IPC.

5. Learned APP submitted that the applicants were attributed role of assaulting the complainant. The applicants have committed offence under Section 326 and other offences under IPC. Their custodial interrogation is necessary.

6. From the documents relied upon by the applicants apparent that, the FIR was registered vide C.R. No. 19 of 2021 against Piyush Patel by applicant No.1 on 18th January, 2021 for offences under Sections 307, 326, 504, 506 & 324 of IPC. In the said FIR, role of assault is attributed to the complainant. The FIR is registered against the applicants subsequently vide C.R. No. 20 of 2021. Applicant No.1 had sustained serious injury. Applicant No.2 was admitted in hospital. He had sustained 9 c.m. deep cut injury on his neck. The offence was registered against the complainant under Section 307 of IPC. The photograph and the injury certificate placed on record indicate that the applicants had sustained serious injuries. There are cross cases registered against each other. There was no

premeditation. Considering the factual aspects, the applicants need not be subjected to custodial interrogation. Hence, I pass the following order:

ORDER

- (i) Anticipatory Bail Application No. 391 of 2021 is allowed;
- (ii) In the event of arrest of the applicants in connection with in C.R. No. 20 of 2021 registered with Dahisar Police Station, the applicants be released on bail on executing P. R. Bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- (iii) The applicants shall attend the investigating officer on 22nd, 23rd and 24th February, 2021 between 11.00 a.m. to 1.00 p.m. and thereafter, as and when called for till filing of charge-sheet.
- (iv) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)