

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

ANTICIPATORY BAIL APPLICATION NO.594 OF 2021

1. Rauf Rehman Chikhlekar,
2. Shadab Alamgir Bubere, &
3. Sayem Danish Patel @ Sameer
Ayub Patel

.... Applicants

Versus

The State of Maharashtra

.... Respondent

Mr. Mubin Solkar, Advocate a/w. Zarak Khan i/b. Aamir
Sopariwala, for the Applicant.

Mr. S.H. Yadav, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 06th APRIL, 2021

PC. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.305/2020 registered at Padagha Police Station, District-Thane on 21.11.2020 under Sections 353, 143, 147, 149, 188, 269, 270 of the Indian Penal Code and under Sections 37, 135 of the Maharashtra Police Act, Section 11 of the Maharashtra COVID-19 Ordinance 2020 and Section 3 of the Epidemic Diseases Act, 1897.

2. The FIR is lodged by Forest Officer Varsharani Kharmate. She has stated that on 20.11.2020 at about 10:30 p.m. she was informed by her seniors that they had received a secret information that accused Yasin and Azjhar had a farm house at Rahur and there was stock of rare wood. The informant was given search warrant. 35 to 40 officers of the Forest Department along with SRP platoons went to the spot at about 2:00 a.m.. The informant and others went to the main-gate and called for Yasin. One person came out. He was shown the warrant. It is alleged that one Sameer Ayub Patel was sitting on the ota. He started shouting. The prosecution case appears to be that said Sameer Patel was none other than Applicant No.3. After raising shouts he went inside. Applicant No.3 and one other person, who according to the prosecution case, was Applicant No.2 prevented the raiding party to enter the house. They were shown the warrant, but, they did not allow the raiding party to enter. The accused were shouting that there were ladies in the house and the raiding party should not enter the house. It is alleged that Applicant No.3

and one more boy made phone calls. When they were being taken in custody, they started pushing their way out. But they were over-powered and they were taken outside the bungalow and they were made to sit in the vehicle. It is alleged that at that time Applicant No.3 kicked the staff and abused them. The raiding party found rare quality wood within the premises of the bungalow. There were no valid documents. The goods were seized. While the seized goods were being taken away from the bungalow, Applicant No.2 and nine to ten others, including some ladies, intercepted their vehicles. They were abused. It is alleged that Applicant No.3 escaped from the custody. The raiding party then went to Thane and registered FIR.

3. Learned Counsel for the Applicant submitted that Applicant No.1 is a cancer patient. Applicant No.2 is a senior citizen and Applicant No.3 is a young boy. In the incident, Applicant No.3 was brutally assaulted. The photographs showing his injuries are annexed to this application. He

submitted that even his young sister was assaulted by the raiding party. He further submitted that Applicant No.2's name is not mentioned but he has described as a 'old man' and hardly any role is attributed to him. As far as Applicant No.1 is concerned, the only role ascribed to him is that when the raiding party members were going back, he along with others tried to intercept their vehicles.

4. Learned A.P.P. strongly opposed this application. He submitted that there are antecedents against Applicant No.1. He further submitted that there is no justification for creating interruptions while the Public Servants were performing their duties.

5. I have considered all these submissions. If Applicant No.3 is really assaulted as is seen from the photographs and if those photographs are taken after the injuries caused in the incident, it is a serious matter. However, in any case, there are hardly any allegations against Applicant No.3 except that he made phone calls, abused and escaped

from the custody. It is also difficult to believe that Applicant No.3 could escape from the custody because the raiding party consisted of not less than 35-40 officers along with SRP Officers.

6. As far as Applicant No.2 is concerned, as mentioned earlier, the only role attributed to him is that he had not cooperated with the search procedure. Applicant No.1 had stood in front of the vehicle when the raiding party was going away.

7. Considering this background, their age group and also taking into account the fact that Applicant No.1 was suffering from cancer, their custodial interrogation is not really justified. The main allegations of hoarding rare wood is against accused Nos.1 & 2 and not against the Applicants. They can be protected by an order of anticipatory bail. They will, of course, have to cooperate with the investigation. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.305/2020 registered at Padagha Police Station, District-Thane, 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 as and when called and shall cooperate with the investigation.
- (iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)