

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

ANTICIPATORY BAIL APPLICATION NO.700 OF 2021

1. Sanjay Babu Rathod, &
2. Sunil Baburao Rathod Applicants
Versus
The State of Maharashtra Respondent

Mr. Atul Patil, Advocate for the Applicants.

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

CORAM : SARANG V. KOTWAL, J.
DATE : 12th MARCH, 2021

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.243/2020 registered at Vairag Police Station, Solapur Rural under Sections 143, 147, 148, 149, 324, 326, 504, 506 of the Indian Penal Code.

2. Heard Shri Atul Patil, learned Counsel for the Applicants and Shri S.H. Yadav, learned APP for the State.

3. The FIR is lodged by one Santosh Rathod. He has stated that on 4.7.2020, one Atul Rathod from the Applicant's group had cut the electricity wires of the bore-well. On

5.7.2020, the informant Santosh's brother Namdeo questioned Atul about his act. Atul had taken the offence. He went to the house of Applicant No.1 and brought an iron pipe. He was followed by other accused, including both the present Applicants. It is alleged that Applicant No.1 Sanjay was having a sword and he assaulted one Somu Rathod on his head from the blunt side of the sword. Applicant No.1 Sanjay assaulted Somu Rathod on his head, back and stomach. Applicant No.2 Sunil assaulted Sanjay Revan Rathod with a sickle on his head. The others also took part in the assault with their respective weapons. On this basis, the FIR was lodged.

4. Learned Counsel for the Applicants submitted that Applicant No.1 Sanjay himself has suffered injuries on his abdomen. He relied on the medical certificate of Applicant No.1 Sanjay showing that he had stab injury on abdomen, which required suturing. He, therefore, submitted that the story in the FIR against the Applicant is not true and in fact Applicant No.1 was assaulted with a sharp weapon.

5. Learned A.P.P. opposed this application. He relied on the statements of other eye witnesses. The charge-sheet is filed against the other accused. The other witnesses, like, Sonu Rathod, Sanjay Revan Rathod and Babita Rathod have given identical statements to the first information report.

6. I have considered these submissions. The injured Sonu Rathod has suffered one contused lacerated wound on right parietal region of scalp of the dimensions 2 x 1 x 1 cm. It is described as simple injury. Sanju Revan Rathod has suffered one incised wound, which is 5 cm long. It was also described as a simple injury. Both the injured have suffered simple injuries but the injuries are on head.

7. This has to be looked at from the point of view of the present Applicants. Applicant No.1 has himself has suffered a stab wound with a sharp weapon on his abdomen. The FIR does not refer to the cause of that injury at all. Therefore, there is scope to believe that the version in the FIR as well as the statements of the eye witnesses from the informant's group could be exaggerated.

8. Similarly, there is a possibility that the Applicants could get a right of private defence to defend themselves from attack with sharp weapons. Though Applicant No.2 has not suffered any injury by sharp weapon, but, he has also a right to private defence to protect Applicant No.1.

9. In this view of the matter, sufficient doubt is created about the prosecution case. In this situation, custodial interrogation of the Applicants will not be justified. They deserve protection of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.243/2020 registered with Vairag Police Station, Solapur Rural, the Applicants are directed to be released on bail on his 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) The Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)