

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1545 OF 2021**

Ganesh Prashant Nikam	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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Mr. Swapnil V. Walve for the applicant.
Mr.S.H. Yadav, APP for the State.

**CORAM: BHARATI DANGRE, J.
DATED : 13th JULY 2021**

P.C:-

1 The applicant is apprehending his arrest in an offence being registered against him in Chandwad police station on 5th May 2021, thereby invoking Section 326, 224, 223, 504, 506 read with Section 34 of the IPC. The complainant is the cousin brother of the applicant by name Nilesh Nikam who allege that the family of the applicant is residing next to their house and there exist a common road used by them for approaching their respective fields. This was the cause for discord on previous occasions.

2 The incident reported is of 1st May 2021 at 11 O'clock when once again, a row ensued on account of using the pathway. The complainant allege that the present applicant Ganesh with one Sonu, Prashant and Shivaji, questioned him about usage of the said pathway and restrained him from using the same. It is alleged that Ganesh i.e. the present applicant caught hold of the complainant by his neck and fell him on the ground. At that time, the co-accused Sonu assaulted him by means of a Gattu and the blow landed on his thigh, hurting to his genitals. The other members of the family of the complainant intervened and this resulted into a brawl with threats and counter threats.

2 The injured Nilesh being referred to medical examination, the Doctor opined that the injuries are grievous in nature, and therefore, Section 326 is invoked. The complainant also allege that there is also a counter complaint filed by mother of the complainant in respect of the same incident.

3 The counsel for the applicant has placed reliance on the order passed in favour of two of the accused being Prashant and Shivaji i.e. his father and grand-father and also co-accused Yogesh Nikam who have been released on bail on their arrest.

4 Narration of both the complaints reveal that there is

an old animosity amongst the two families on account of the pathway and this has resulted into two counter complaints being filed. The offence being registered on 5th May 2021 in respect of an incident which took place on 1st May 2021 and some of the applicants being arrested, the custodial interrogation of the applicant is not warranted, as from the complaint itself, role attributed to him is to the effect that he pulled the complainant and pressed him to the ground, when the co-accused assaulted him. In light of the clear narration and the role being attributed by the complainant to the present applicant, in my considered opinion, the custodial interrogation is not warranted. However, the applicant is expected to co-operate with the investigation. Hence, the following order :-

ORDER

- (a) Application is allowed.
- (b) In the event of his arrest, the Applicant Ganesh Nikam in connection with C.R.No. 261 of 2021 registered with Chandwad Police Station, shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall co-operate with the Investigating Agency by attending the Chandwad police station on every Monday between 10 am to 1.00 p.m for a period of two months and thereafter as and when called for.

- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

SMT. BHARATI DANGRE, J