

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2060 OF 2021

DARSHAN UTTAM DONDE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.R.D.Suryawanshi, Advocate for the Applicant.

Mr.Ajay Patil, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**DATE : RESERVED ON 12th OCTOBER 2021
PRONOUNCED ON 13th OCTOBER 2021**

P. C. :

1 The present application has been moved by the applicant under Section 438 of the Code of Criminal Procedure apprehending arrest under Section 307, 326, 323, 504, 506, 141, 144, 147 and 149 of the Indian Penal Code (IPC) registered vide Crime No.I-228 of 2021 with Police Station Ambad.

2 It is the case of prosecution that on 26th July 2021 at about 10.15 p.m. while the informant along with his friends was walking down, on account of previous dispute, applicant /accused and other accused confronted the informant and his friends. The prosecution alleges that accused Sunny Bacchav, Prashik Adangale and Akshay Gavanje took out a weapon like knife from their waist and assaulted the informant. When the informant's friends namely Devchand Shriram Kedare and Santosh Suresh Mandali came to his rescue, accused Prashik Adangale, Monty Dalavi and Roshan Jadhav exhorted that all of them should be beaten. It is further alleged that the applicant/accused and accused Prashik Adangale then gave blows of sickle on the abdomen, chest and thigh of Shriram Kedare. Sunny Bacchav assaulted Santosh Mandali on his chest and back by means of a sickle. The present applicant then gave a blow of sickle on the person of the informant but the said blow was resisted by the informant by his right hand and thus suffered injury on his right hand finger. Later on informant lodged the report.

3 Mr.Suryawanshi, learned counsel for the applicant, submits that on the day of the incident the applicant himself was in an injured condition and had suffered fracture on his left leg and thus was not in a position to make any movement without the aid of a walker. The learned counsel also invited my attention to the statement of the concerned Medical Officer recorded by the Investigating Officer during the course of investigation and as also the photographs filed on record. According to the learned counsel, the applicant is ready to co-operate the Investigating Officer in the course of investigation and there being no necessity of custodial interrogation, the interim relief granted by this Court should be confirmed.

4 Mr.Ajay Patil, learned APP, on the other hand, opposed the submissions by contending that the injuries suffered by the prosecution witnesses are grievous in nature and then invited my attention to the Medical Certificate filed on record. According to the learned APP, investigation is in progress and recovery of weapon is yet to be effected. In such circumstances, the application deserves to be rejected, argued learned APP.

5 I have perused the investigation papers and have also seen the photographs including the Medical Certificates pertaining to the applicant and as also the statement of the concerned Medical Officer, who examined the applicant, recorded during the course of investigation.

6 First of all, it appears that on 23rd July 2021 the applicant was treated by Dr.Harish Dhangar in respect of fracture suffered by the applicant on the left leg. The photographs also support the treatment papers. Then there is statement of Dr.Harish Dhangar recorded on 22nd September 2021 by the Investigating Officer wherein he specifically states that on 23rd July 2021 the applicant had visited his hospital and had given history of bike accident. His statement further shows that he had plastered the lower part (heel) of the left leg and had opined that it would take atleast sixty days for recovery. Thus, the statement of the concerned Medical Officer also supports the theory put forth by the applicant.

7 As against above, I have also gone through the Medical Certificate pertaining to Shriram Kedare who was allegedly assaulted by the applicant and Prashik Adangale. The certificate does show the grievous injuries sustained by said Shriram Kedare. It further appears that he has already been discharged from hospital.

8 Thus, having regard to the facts and circumstances of the case, in my considered opinion, the present application deserves consideration. Hence, the following order :

ORDER

- 1 The application is allowed.

- 2 In the event of his arrest in Crime No.I-228 of 2021 for the offences punishable under Section 307, 326, 323, 504, 506, 141, 144, 147 and 149 of the IPC registered with Police Station Ambad, the applicant be released on bail on executing PR.Bond in sum of Rs.25,000/- with 1/2 surety in like amount.

- 3 The applicant shall attend Police Station Ambad as and when called by the Investigating Officer.
- 4 The applicant shall not tamper the prosecution evidence.
- 5 The application stands disposed off accordingly.

(V. G. BISHT, J.)

ARTI VILAS
KHATATE

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ARTI VILAS
KHATATE
Date: 2021.10.13
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