

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

ANTICIPATORY BAIL APPLICATION NO. 2163 OF 2021

1. Kisan Bango Jadhav
 2. Raju Kisan Jadhav
 3. Ajay Budhaji Jadhav
- ... Applicants

Versus

The State of Maharashtra

... Respondent

.....

Mr. Shantanu R. Phanse a/w Mr. Vriddhi Maria, Advocate for the Applicants.

Mr. R. M. Pethe, APP for the Respondent – State.

Mr. S. B. Patil, (Police Naik) Shahapur Police Station, Thane (R)
Present.

.....

CORAM : PRAKASH D. NAIK, J.

DATE : 7th SEPTEMBER, 2021

PER COURT:

1. This is an application for anticipatory bail. The applicants are apprehending arrest in C.R. No. I-310 of 2021 registered with Shahapur Police Station, Dist. Thane for offences under Sections 324, 323, 504, 506, 143, 147 & 149 of Indian Penal Code (for short “IPC”).

2. The First Information Report (for short ‘FIR’) was registered on 23rd July, 2021 at about 00.38 hours. The

complainant has alleged that all the applicants are involved in the assault. The dispute is on account of ancestral property, while the person engaged by the complainant Was Ploughing the field, the accused had the altercation with the complainant at about 3.30 p.m. The applicant No.1 had allegedly abused the complainant. The applicant No.2 was armed with wooden stick and applicant No.3 had handed over the knife to applicant No.2 which was used by him in assaulting the injured. Two persons were injured in this case. The cross FIR was registered at the instance of the applicants vide C.R. No. 309 of 2021 with the same Police Station for offences under Sections 324, 323, 504 & 506 of IPC on 22nd July, 2021 at 6.31 p.m.

3. During the course of investigation, Section 326 of IPC was invoked in the present FIR.

4. Learned counsel for the applicants submitted that the allegations in the FIR are concocted. The applicants had lodged the FIR first in point of time. No weapon was used in the incident. The theory of using knife is concoction by complainant. There is delay in lodging the FIR.

5. Learned APP submitted that the applicant No.2 has played vital role. He was armed with wooden stick as well as knife.

He assaulted injured persons. One of the injured Pushpa Jadhav had sustained fracture to the right wrist and left wrist and the complainant had sustained scratch mark over right arm and left forearm which are simple in nature.

6. On perusal of the FIR, it is apparent that the complainant had alleged that the applicant No.1 had abused the complainant and other witnesses. The applicant No.2 was armed with wooden stick. The applicant No.3 had handed over the knife to applicant No.2 and by using the said weapon he had assaulted the complainant on both his hands. Thus, the medical certificate produced by the prosecution does not correspond to the version of the complainant. The injury certificate of the complainant states that the complainant had suffered scratch mark to the wrist and forearm. The FIR was registered on the applicant's side which was first in point of time. Section 323 was added on account of injury certificate referred to the fracture sustained by one of the witness. Considering the nature of dispute and the factual aspects as stated above, the applicants need not be subjected to the custodial interrogation.

7. Hence, I pass the following order:

ORDER

- (i) Anticipatory Bail Application No. 2163 of 2021 is allowed;
- (ii) In the event of arrest of the applicants in connection with in C.R. No. I-310 of 2021 registered with Shahapur Police Station, Dist. Thane, the applicants be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicants shall attend the investigating officer on 14th, 15th & 16th September, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for;
- (iv) The applicants shall not tamper with the evidence and shall not threatened the witnesses in any manner.
- (v) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)