

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.96 OF 2022

**SUSHILKUMAR PARASMAL KUCHERIYA AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA**

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Mr. P.P. More, Advocate h/f Mr. G.C. Navandar, Advocate for applicants
Mrs. V.N. Patil-Jadhav, APP for the respondent

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**CORAM : SMT. VIBHA KANKANWADI, J.
RESERVED ON : 03rd FEBRUARY, 2022
PRONOUNCED ON : 08th MARCH, 2022**

ORDER :

1 The applicants are apprehending their arrest in connection with Crime No.376/2021 dated 24.12.2021 registered with Parbhani Rural Police Station, Dist. Parbhani, for the offence punishable under Section 307, 326, 324, 327, 427, 323, 506 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. P.P. More holding for learned Advocate Mr. G.C. Navandar for applicants and learned APP Mrs. V.N. Patil-Jadhav for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 Perusal of the First Information Report lodged by one Akhilesh Anilkumar Kucheriya on 24.12.2021 shows that it is in respect of the incident alleged to have taken place at about 3.00 p.m. on 23.12.2021 in agricultural land bearing Gat No.84, within Mirzapur shivar area. In his First Information Report itself he is accepting that there is enmity between him and the family of the applicants on account of the agricultural land. But then according to him, the revenue decision is in his favour. Applicant No.1 is his cousin brother and applicant No.2 is his nephew i.e. son of applicant No.1. He states that the applicant No.1 along with his wife and children including applicant No.2 came around 3.00 p.m. in the field. Applicant No.2 was holding iron rod and applicant No.1 was holding fibre stick. After abusing him, they started assaulting him. Applicant No.2 trying to assault him by iron rod on his head, he ducked and received the injury below his left knee, causing grievous injury. Applicant No.1 had assaulted him by spade having fibre handle on his back, stomach, both hands and both legs. The other co-accused also assaulted him. Applicant No.1 had snatched the gold chain from his neck. According to him, the applicants caused damage to his two wheeler. By hearing his shouts another cousin brother of the informant came and the assailants fled by giving him threat to kill.

4 Perusal of the police papers would show statements of witnesses

have been recorded. Only Nitin Kucheriya appears to be the eye witness, who is supporting to the informant. The others have stated that they have heard the noise and when they went to the spot, they came to know about the incident from the informant. Another fact to be noted is, the injury certificate of the informant issued by Medical Officer, General Hospital, Parbhani, would show that about 11 injuries were noted by the Medical Officer, but all of them are stated to be simple. None of them is on head. Therefore, it would be the task for the Trial Court, as to whether Section 307 of the Indian Penal Code can be said to have been made out, so also, 326 of the Indian Penal Code. The application has been objected on the ground that the weapons used in the commission of the crime are required to be seized, so also, the four tola gold chain is required to be recovered. At this stage, the police papers do not show that any evidence about the said gold chain was produced by the informant. The spot panchnama would show that two pieces of green colour plastic rod were seized from the spot and also the side glasses of scooty vehicle. Therefore, taking into consideration all these events though there appears to be Crime No.517/2016 lodged against the applicants by paternal aunt of the informant, for the offence punishable under Section 289, 323, 504, 506 read with Section 34 of the Indian Penal Code, they deserve to be released on anticipatory bail, however, with stringent conditions. Hence, following order.

ORDER

1 Application stands allowed.

2 In the event of arrest of applicants viz. **1) Sushilkumar Parasmal Kucheriya and 2) Samayraj Sushilkumar Kucheria**, in connection with Crime No.376/2021 registered with Parbhani Rural Police Station, Dist. Parbhani, for the offence punishable under Section 307, 326, 324, 327, 427, 323, 506 read with Section 34 of the Indian Penal Code, 1860, they be released on P.R. of Rs.50,000/- (Rupees Fifty Thousand only) each with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand only) each.

3 The applicants shall not indulge in any criminal activity nor they should tamper with the evidence of the prosecution, in any manner.

4 Applicants should remain present before the Investigating Officer on every Monday and Friday between 11.00 a.m. to 02.00 p.m., till filing of the charge sheet and co-operate with the investigation.

5 If any offence is registered, henceforth, against the applicants till the present trial concludes, then, the prosecution is at liberty to apply for cancellation of bail.

(Smt. Vibha Kankanwadi, J.)