

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.105 OF 2022

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| 1. | Roshan Sudamsingh Jadhav | |
| 2. | Sunny Yuvraj Rajput | ... Applicants |
| | Versus | |
| | The State of Maharashtra | ... Respondent |

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Mr. A. B. Girase, Advocate for applicants.

Mr. N. T. Bhagat, APP for the respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 10.02.2022

Pronounced on : 11.03.2022

ORDER :-

1. Applicants are apprehending their arrest in connection with Crime No.112 of 2021 registered with Shirpur Taluka Police Station, Dist. Dhule for the offences punishable under Sections 307, 323, 427, 504, 506, 143, 147, 148, 149 of Indian Penal Code and under Section 4, 25 of Arms Act.

2. Heard learned Advocate Mr. A. B. Girase for the applicants and learned APP Mr. N. T. Bhagat for the respondent – State.

3. It has been vehemently submitted on behalf of the applicants that the FIR against the applicants is by way of retaliation and the enmity

between two groups. FIR has been lodged on 13.12.2021 in respect of an incident alleged to have taken place on 30.11.2021. Therefore, there is apparent delay in lodging the FIR, which has not been properly explained. In the FIR itself, it is stated that there was dispute about 4 years ago at the time of Shivjayanti and cross cases were filed at that time. As regards the incident is concerned, the role attributed to the applicants is that their presence is shown and it is stated that they were armed with wooden sticks, but it is not specifically stated as to whom they had assaulted. No doubt, role is attributed to co-accused persons specifically stating that those persons assaulted the informant and witnesses with sword, iron rod, sticks etc. and also that after the assault, some of the accused persons sat in the four wheeler, which was being driven by accused - Sonu and the others, who were occupants of the car, were instigating him and said Sonu had tried to run over the car over the person of the informant, but informant managed to get rescued, however, serious injuries were caused to him and the witnesses. Nothing is required to be recovered from the applicants. The false implication of the applicants cannot be ruled out. Applicants are ready to abide by the terms of the bail.

4. Learned APP strongly opposes the application and submitted that even for the present applicants, specific role has been attributed.

Accused No.1 had assaulted the informant and his friends by sword and others by rod and sticks. The weapons are required to be seized. The injury certificates would show that the informant – Harshal Chandrakant Patil, received injuries to his parietal region and was required to undergo surgery, has sustained grievous injury. Another witness Abhishek Marathe sustained five injuries and first four injuries are stated to be grievous and one is simple. Another witness Kunal Patil had sustained three simple injuries and witness Sagar Patil sustained two simple injuries. Therefore, taking into consideration the involvement of the applicants, their custodial interrogation is necessary.

5. As aforesaid, one Harshal Sonawane has lodged the report on 13.12.2021 in respect of incident dated 30.11.2021. Definitely, it appears that there is delay in lodging the FIR. It was not necessary that only Harshal ought to have lodge the report, but it could have been lodged by anybody those who had received simple injuries. Further fact to be noted is that there was previous enmity between two groups. Initially, the informant and others could find both the applicants at a marriage function at about 8.00 p.m. on 30.11.2021. The informant and his friends as well as the applicants and their friends appear to had enjoyed dance in the marriage ceremony, but then the informant says that the applicant and co-accused had abused them and thereafter, they

were giving threats that they should leave the place. In order to avoid quarrel in the marriage, informant and his friends are stated to have left the said place. The accused persons were found on the outdoor gate of the factory around 10.00 p.m. He could find the present applicants holding wooden sticks in their hand, but thereafter neither the informant nor the witnesses, who are corroborating him in their statement under Section 164 of the Code of Criminal Procedure, have stated specific role to the present applicants. No doubt, all of them are stating in chorus that the present applicants were armed with wooden sticks, but when it comes to use of those sticks, there is no specific statement. Under such circumstance, the custodial interrogation of the applicants may not be required. Granting attendance to the applicants to the Police Station would guard the situation. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) In the event of arrest of the applicants viz. (i) Roshan Sudamsingh Jadhav and (ii) Sunny Yuvraj Rajput in connection with Crime No.112 of 2021 registered with Shirpur Taluka Police Station, Dist. Dhule for the offences punishable under Sections 307, 323, 427, 504, 506, 143, 147, 148, 149 of Indian Penal Code and under Section 4, 25 of Arms Act, they be released on P. R.

Bond of Rs.30,000/- with two sureties of Rs.15,000/- each.

III) The applicants shall attend the concerned Police Station on every Sunday between 10.00 a.m. to 2.00 p.m. till filing of charge-sheet and cooperate with the investigation.

IV) They shall not tamper with the evidence of the prosecution in any manner.

V) They shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]

scm