

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

ANTICIPATORY BAIL APPLICATION NO.120 OF 2022

Vyankat S/o Ashok Biradar

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

WITH

ANTICIPATORY BAIL APPLICATION NO.1566 OF 2021

1) Narsing S/o Ashok Biradar,

2) Balaji S/o Vishwambhar Jambhale

...APPLICANTS

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.Krishna P. Rodge Advocate for Applicants in both the
Applications.
Mrs.Vaishali Patil-Jadhav, A.P.P. for Respondent-State in both
the Applications.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 4th FEBRUARY, 2022

ORDER :

1. Applicants in both the applications are apprehending their arrest in connection with Crime No.321 of 2021 dated 04-11-2021, lodged by one Krishna Nivrutti Biradar, with Deoni Police Station, District-Latur for the offence punishable under Section 326, 323, 143, 147, 148, 149, 504, 506 of Indian Penal Code.
2. Heard learned Advocate Mr. Krishna P. Rodge for applicants and learned APP Mrs. Vaishali Patil-Jadhav for respondent-State.
3. It has been submitted on behalf of applicants that perusal of the First Information Report would show that all the family members of the applicants have been roped and intentionally some or the other act has been attributed to them. In fact, Ashok Biradar - father of applicant No. 1 in Anticipatory Bail Application No. 1566 of 2021 and applicant in Anticipatory Bail Application No. 120 of 2022, had lodged First Information Report bearing Crime No. 320 of 2021 on 04-11-2021 against the informant and his family members. They had assaulted Ashok Biradar on 03-11-2021. Present First Information Report is the counter-blast to the said First Information Report. Informant and

his family members run a Fair Price Shop in the village. Ashok Biradar had lodged complaint about the said shop with Collector, Latur. Therefore, the informant and his family members have grudge against applicants. In fact the applicant – Vyankat Biradar was not even present in the village at the time of alleged incident. Further, there is considerable delay in lodging the First Information Report. The custodial interrogation of the applicants is not required for the purpose of investigation. They deserve to be released on anticipatory bail. The applicants are ready to abide by the terms of the bail.

4. Per contra the learned APP has strongly opposed both the applications on the ground that the contents of First Information Report and statements of the witnesses recorded so far disclose specific role of the applicants. The informant has stated that applicant – Vyankat Biradar had used weapon to cause injuries to the head of informant. Other accused persons had assaulted him by fists and kick-blows, causing covert injuries. Offence is serious. The applicants do not deserve pre-arrest bail. So far as Anticipatory Bail Application No.120 of 2022 is concerned, she submitted that the matter is coming for the first time and she was yet to receive the police papers. She therefore, requested

not to grant interim order in favour of applicant – Vyankat Biradar and prayed for rejection of both the applications.

5. Perusal of the First Information Report would show that, it is in respect of the alleged incident that had taken place at about 6.00 a.m. on 04-11-2021. Informant was proceeding towards his field, when he was obstructed by accused applicants and others. These persons started asking him as to why he had assaulted their father a day before. Applicant – Vyankat Biradar assaulted him by the handle of axe on his head. It appears that three blows were given. Other accused persons had assaulted him by fists and kick-blows, causing covert injuries. After the informant had raised voice, people rescued him.

6. Thus, it can be seen that specific role is attributed to Vyankat Biradar i.e. applicant in Anticipatory Bail Application No.120 of 2022, regarding assault by handle of axe. Offence registered is under Section 326 of Indian Penal Code and therefore, his physical custody would be required for the purpose of investigation. He does not deserve any protection. His application deserves to be rejected at the threshold.

7. As regards the applicants in Anticipatory Bail Application No. 1566 of 2021 are concerned, their custody is not required, as the allegations against them are regarding causing of covert injuries by fists and kick-blows. Under these circumstance the interim protection granted earlier by this Court on 23-12-2021 to them deserves to be confirmed, with conditions to be attached. Hence, following order:

ORDER

i) Anticipatory Bail Application No. 120 of 2022 stands rejected.

ii) Anticipatory Bail Application No. 1566 of 2021 stands allowed.

iii) Earlier order passed by this Court in Anticipatory Bail Application No. 1566 of 2021 on 23-12-2021 stands confirmed. It is thus clarified that in the event of arrest of the applicant No.1 – Narsing S/o Ashok Biradar and Applicant No.2 – Balalji S/o Vishwambhar Jambhale, in connection with Crime No.321 of 2021, registered with Deoni Police Station, District-Latur, for the offence punishable under Section 326, 323, 143, 147, 148, 149,

504, 506 of Indian Penal Code, they be released on bail on PR Bond of Rs.25,000/- (Rs. Twenty Five Thousand Only) each with one or two sureties of like amount, if they are not already released.

iv) The applicants shall not tamper with the evidence of the prosecution in any manner.

v) The applicants shall not indulge in any criminal activity.

vi) The applicants shall co-operate with the investigation.

[SMT. VIBHA KANKANWADI , J.]