

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

911 ANTICIPATORY BAIL APPLICATION NO.196 OF 2022

RENUKA W/O RAMESH MUNDE AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. P.P. More, Advocate h/f Mrs. Sharada P. Chate, Advocate for applicants

Mr. B.V. Virdhe, APP for the respondent No.1

Mr. V.B. Dhage, Advocate for the respondent No.2

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 09th MARCH, 2022

PER COURT :

1 Present applicants are apprehending their arrest in connection with Crime No.83/2021 dated 17.05.2021 registered with Malakoli Police Station, Dist. Nanded, for the offence punishable under Section 307, 452, 323 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. P.P. More holding for learned Advocate Mrs. Sharada P. Chate for applicants, learned APP Mr. B.V. Virdhe for the respondent No.1 and learned Advocate Mr. V.B. Dhage for the respondent No.2. In order to cut short, it can be said that they have argued

in support of their respective contentions.

3 Applicant No.1 is the daughter-in-law of the informant and applicant No.2 is the brother of applicant No.1.

4 The informant is contending that when she was in her house at about 11.00 a.m. on 14.05.2021, the present applicants and one Shankar Balaji Kendre i.e. another brother of applicant Nos.1 and 2 entered her house and after assaulting her and making her to lie down on the ground, the brothers of the daughter-in-law caught hold of her and the daughter-in-law had poured poisonous medicine in her mouth. When she raised voice, the neighbours came and the accused persons fled away. Informant was initially taken to the Government Hospital at Kandhar and thereafter shifted to Government Hospital, Vishnupuri, Nanded. She contends that by administering poisonous substance the accused persons had tried to kill her.

5 The documents on record filed by the applicants show that the present applicant No.1 had filed First Information Report vide Crime No.68/2021 with the same Police Station on 11.04.2021, for the offence punishable under Section 307, 498-A, 494 read with Section 34 of the Indian Penal Code. At that time she had made allegations that the informant in present case had administered her poisonous substance.

6 The police papers show that the informant was conscious and able to give statement on 17.05.2021 and then her First Information Report has been got recorded. The statements of witnesses would show that certain persons had seen the accused persons running from the house of the informant and when they went inside the house, they could find the informant shouting and there was smell of poisonous substance from her clothes. Thereafter she had narrated the incident to those persons. Thus, they are not the witnesses, who had actually seen the alleged act of administration of poison. Statements of informant and those witnesses also appear to be taken under Section 164 of the Code of Criminal Procedure and those witnesses had in their statements under Section 161 of Code of Criminal Procedure have stated that one person had seen the applicant No.1 administering medicine and another has stated that since people had gathered, he went there, respectively. The informant has given similar statement as First Information Report. Interestingly the medical certificate appears to have not been collected uptill now, though correspondence appeared to have been made. Nothing appears to have been seized from the spot, but the clothes of the informant were seized and were sent for chemical analysis. The C.A. report has been collected, which states that the general and specific chemical testing does not reveal any poison on those clothes. As on today, this Court is handicapped, on the point that since the medical

papers are not collected, it cannot be gathered, as to whether stomach wash was given to the informant at any hospital and whether that substance was sent for chemical analysis. Whether the treatment that was given was suitable for such kind of patient is also not made known. The Investigating Officer has not given reason as to why he could not collect the medical papers. This Court cannot wait for indefinite period for the medical papers.

7 Further, as regards the applicant No.2 is concerned, it is to be noted that accused No.3 i.e. his brother Shankar was released on anticipatory bail by learned Additional Sessions Judge, Kandhar on 04.12.2021. Definitely, role attributed to applicant No.2 is same. Under such circumstance, the learned Additional Sessions Judge, Kandhar ought to have considered the ground of parity for applicant No.2, when he rejected the bail application for applicant No.2 on 24.01.2022. It appears that the learned Advocate who was representing the present applicants before learned Additional Sessions Judge had not pointed to the learned Additional Sessions Judge the order passed by the said Court on 04.12.2021. In fact, it was the order in favour of the applicant No.2 at least and it ought to have been pointed out by the learned Advocate. No ground of parity was taken in the Criminal Bail Application No.266/2021 filed by the present applicants before the said Court.

8 The physical custody of the applicants is definitely not required, taking into consideration the investigation has progressed and, therefore, the present application deserves to be granted. Hence, following order.

ORDER

1 Application stands allowed.

2 In the event of arrest of the applicants viz. **1) Renuka w/o Ramesh Munde and 2) Madhav Balaji Kendre**, in connection with Crime No.83/2021 dated 17.05.2021 registered with Malakoli Police Station, Dist. Nanded, for the offence punishable under Section 307, 452, 323 read with Section 34 of the Indian Penal Code, 1860, they be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) each with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.

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

4 They should cooperate with the investigation and shall attend the Malakoli Police Station, Dist. Nanded, on every Monday and Thursday between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

(Smt. Vibha Kankanwadi, J.)