

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.212 OF 2022

- | | | |
|----|----------------------------|----------------|
| 1. | Vishwadeep Kailas Sonawane | |
| 2. | Ratndeeep Kailas Sonawane | ... Applicants |
| | Versus | |
| | The State of Maharashtra | ... Respondent |

...

Mr. C. T. Jadhav, Advocate for applicants.

Mr. V. M. Kagne, APP for the respondent – State.

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 10.03.2022

ORDER :-

1. The applicants are apprehending their arrest in connection with Crime No.473 of 2021 registered with Jilhapeth Police Station, Dist. Jalgaon for the offences punishable under Sections 326, 323, 504, 506 read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. C. T. Jadhav for the applicant and learned APP Mr. V. M. Kagne for the respondent - State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. Perusal of the FIR would show that it has been lodged by one Sachin Dhanraj Patil. It has been stated that on 26.10.2019 around 6.30

p.m., he went for exercise at Eklavya Krida Sankul on his motorcycle. He was returning around 8.30 to 9.00 p.m. and near the tunnel on National Highway No.6 his motorcycle had cut with the motorcycle of Vishwadeep Kailas Sonawane. Thereafter, he says that Vishwadeep started abusing, slapping and giving blows to him. At that time itself, one Dumper came, from which 4-5 persons got down. Vishwadeep then called one person as Ratnadeep and stated that the informant should be assaulted. Then Ratnadeep (applicant No.2) gave blow by big wooden stick on the head of informant, at that time, Vishwadeep was catching him. The other persons were asked to leave. Informant says that he was getting fainted and people started gathering. One of his friend took him to Police Station. He went to Civil Hospital, Jalgaon by taking reference chit. From Civil Hospital, Jalgaon, he was referred to Dr. Rubee Hospital. He lodged the report about the said incident dated 26.10.2019 on 30.10.2021 at about 22.23 hours.

4. The applicants have produced on record the FIR lodged by applicant No.1 – Vishwadeep. It was lodged on 27.10.2021 at 2.51 hours. It was against 10 unknown persons. He says that a motorcycle driver bearing MH-19-BR-9402 came near him and started abusing him. He slapped him as a result of which he fell down from the vehicle. He says that other persons were asking that person to calm down, but he

was not listening. That person then took out mobile and called 9-10 persons. Thereafter, Vishwadeep was assaulted by fighter, stones etc. He also states that his Gold chain went missing and Rs.15,000/- cash in his pocket is also missing. His brother, who had come for his rescue, was also assaulted.

5. It is to be noted that the informant Sachin Patil has not clarified as to how he was knowing Vishwadeep Sonawane prior to 26.10.2019. If we consider their addresses, then they are residing at different places. He has not stated that since he had noted the motorcycle number and then he could gather from the RTO record that said person was applicant No.1, but then in the FIR he has directly stated his name. This is surprising. No doubt, there appears to be incident had taken place, but as regards the FIR which has been lodged against the present applicant is subsequent. The police papers show the certificate issued by Ruby Hospital, which appears to be owned and run by Dr. Sau. Pallavi Ketan Rane and she has stated that the nature of the injury was grievous. Important point to be noted is that the certificate does not say when the patient was admitted in her hospital, when she had examined him, what were the tests those were undertaken, but still she says that the informant has peri tentorial hemorrhage and scalp edema on temporo-parietal and parieto-occipital regions. This cannot be detected

unless there would have been x-ray. Interestingly, the police have not collected the certificate from the Government Hospital, where the informant was initially taken. Again coming back to the certificate issued by Dr. Rane, it is to be noted that she has not stated for how many days, the patient was admitted in her hospital and when he was discharged. It will not be out of place to mention here that the father of the present applicants had given an application under R.T.I. Act stating that they should check the CCTV footage at Ruby Hospital and would ascertain that the said certificate is forged or has been given for money. This Court may not go into those aspects, but how the certificate is looking in material particulars will have to be considered here. The statements of witnesses have been recorded, but it is to be noted that those witnesses had either joined a bit late and gathered there after people started gathering. Taking into consideration all these aspects, the physical custody of the applicants is not required. Making them available for investigation would suffice. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) In the event of arrest of applicants viz. (i) Vishwadeep Kailas Sonawane and (ii) Ratndeeep Kailas Sonawane, in connection with Crime No.473 of 2021 registered with Jilhapeth

Police Station, Dist. Jalgaon for the offences punishable under Sections 326, 323, 504, 506 read with 34 of Indian Penal Code, he 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 Thursday and Saturday between 10.00 a.m. to 2.00 p.m. till filing of charge-sheet.

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