

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.504 OF 2022

1. Kadappa @ Brahmanand Shankar Omshetti
 2. Pawan s/o Balbhim Omshetti
- ... Applicants

Versus

The State of Maharashtra

... Respondent

...

Mr. Amey Sabnis h/f Mr. E. S. Murge, Advocate for applicants.

Mr. A. A. Jagatkar, APP for the respondent – State.

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 27.04.2022

ORDER :-

1. The applicants have been arrested on 18.02.2022 and 20.02.2022 respectively in connection with Crime No.55 of 2022 registered with Murum Police Station, Dist. Osmanabad for the offences punishable under Sections 143, 147, 148, 149, 324, 326, 427, 504, 506 of Indian Penal Code. They have filed present application under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. Amey Sabnis holding for learned Advocate Mr. E. S. Murge for the applicant and learned APP Mr. A. A. Jagatkar 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. FIR has been lodged by one Anand @ Anil Revansiddha Marbe on 13.02.2022 in respect of an incident alleged to have taken place on 12.02.2022. He has stated that he had some enmity with accused No.1 - Basawraj, who is stated to be at present absconding, but then on 12.02.2022, when the brother-in-law of the informant had come to meet him at about 6.00 p.m. and when he was about to leave, the informant, his nephew as well as his friend took brother-in-law to a hotel around 8.00 p.m. The four wheeler of the brother-in-law was parked by the side of the road and when all of them were proceeding towards hotel, accused No.1 – Basawraj and present applicant No.1 came armed with wooden stick. Basawraj started abusing the informant and saying that he would see him. When the informant was still saying that he should not abuse unnecessarily and the nephew was inviting them for a cup of tea, yet accused No.1 started assaulting the informant. Applicant No.1 assaulted informant on his leg with wooden stick, till then co-accused Abhishek, Sagar and Pawan i.e. applicant No.2 came armed with wooden stick. They started assaulting the informant on his chest and leg. They severely beaten him, which resulted in fracture. He was also assaulted on the hands. He then states that his both legs were fractured. When the other persons tried to save him, they were threatened by the present applicants and co-accused. At the time the informant was being

kept in the four wheeler of the brother-in-law, the accused persons caused damage to the said four wheeler.

4. The police papers would show that the informant was admitted to Gangamai Hospital, Solapur on 13.02.2022 and was discharged on 15.02.2022. The certificate shows that he had lacerated wound over both legs. As regards the left leg is concerned, it is stated that the x-ray was done, though the nature of injury of both the legs is stated to be simple. So also, the discharge summary shows that debridement and suturing was done on both the legs. It also states the diagnosis as blunt trauma with lacerated wound over both legs, surgery/procedure done. There is no mention about the fracture either to the legs or to the hand in the segment captioned beyond radiological investigation. It has been stated that X ray – left hand with wrist – AP and lateral view [12.02.2022] – no evidence of fracture or dislocation is seen. It appears that X-ray of legs was not at all taken. So, the medical report is not supporting the contents of the FIR as regards the fracture is concerned. Another fact to be noted is that the observation is that patient is able to mobilising with full weight bearing. So, this shows that there was no fracture. Statement of witnesses have been recorded. The police paper further shows that five broken pieces of wooden stick/log have also been seized. Therefore, when substantial part of the investigation has been

done, further physical custody of the applicants is not required. The case is triable by learned Judicial Magistrate First Class. With appropriate conditions, they can be released on bail. Hence, the following order :-

ORDER

- I) Application is hereby allowed.
- II) The applicants viz. (i) Kadappa @ Brahmanand Shankar Omshetti and (ii) Pawan s/o Balbhim Omshetti, who have been arrested in connection with Crime No.55 of 2022 registered with Murum Police Station, Dist. Osmanabad for the offences punishable under Sections 143, 147, 148, 149, 324, 326, 427, 504, 506 of Indian Penal Code, be released on P. R. Bond of Rs.30,000/- with two solvent sureties of Rs.15,000/- each.
- III) The applicants shall remain present before the Investigating Officer on every Friday 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 should not indulge in any criminal activity.
- VI) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]

scm