

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

ANTICIPATORY BAIL APPLICATION NO.436 OF 2022

1. Sandhya W/o. Anil @ Amol Wadve
2. Siddharth S/o. Tulshiram Rajbhoj
3. Ritesh S/o. Siddharth Rajbhoj ..Applicants

VERSUS

- . The State of Maharashtra ..Respondent

...
Advocate for Applicants : Mr.Dhananjay M. Shinde
APP for Respondent : Mr.A.M.Phule

...
CORAM : SMT. VIBHA KANKANWADI, J.

DATE: 21st April, 2022

ORDER :-

1. Present applicants are apprehending their arrest in connection with Crime No.0060 of 2022 registered with Vazirabad Police Station, Dist.Nanded, for the offence punishable under Sections 302, 307, 143, 147, 148, 149, 504, 506 of the Indian Penal Code (IPC) and under Sections 4, 25 of the Indian Arms Act.

2. Heard Mr.D.M.Shinde, learned Advocate for the applicants and Mr.A.M.Phule, learned APP for the respondent.

3. It has been submitted that the applicants have been falsely implicated in this crime. The applicant No.1's father is residing at Nanded and applicant No.1 resides at Hingoli. Infact name of applicant No.1 was not taken by the informant while lodging the FIR but other family members have taken name of applicant No.1 in the supplementary statement. Applicant Nos.2 and 3 were called at the Police Station on the same night and they were there till morning. When it was revealed that they have no role to play, they were asked to leave the Police Station. Applicant No.3 is a student and pursuing his education in B.Sc. (Nursing). Applicant No.3 is also suffering from visual impairment and he has 40% disability in respect of both the eyes. Applicant No.2 suffers from heart disease. The allegations against them are not of such a nature that it will require custodial interrogation and therefore, applicants be released.

4. Learned APP has strongly opposed the application and submitted that the FIR is not the encyclopedia and therefore, at that moment the applicants might not have given all the details but the witnesses have clearly stated that applicant Nos.2 and 3 had come alongwith knife, khanjar, sword and sticks. Though it has been stated that they had not used those weapons yet they were capable of making use of those weapons. Applicant no.1

and her husband had caught-hold the grandson of the informant and then accused Lakhan and Mahendra had stabbed him with knife. Same statement has been given by the wife of the informant. The independent witness has also stated about the role of the present applicants and therefore, the applicants may not be granted discretionary relief.

5. Definitely, the FIR is not the encyclopedia, it also sets law in motion and further it is to be noted that the witness initially states those things which he has witnessed. Even if he misses out some portion then he may recollect the event after some time. The effect of such incident on the mind of the witness is also required to be considered. Here the son of the informant has expired, his name was Praful Digambar Rajbhoj and his cause of death is mentioned as 'stab injury to chest'. Accused Mahendra is stated to have stabbed him in his stomach and other parts of the body. In the supplementary statement, the informant has clarified that the present applicant Nos.2 and 3 were armed with the weapons. It shows their active part and then as regards applicant No.1 is concerned, it is stated that she along with accused Anil had caught-hold of grandson of the informant. The investigation is still incomplete. Statements of the witnesses have been recorded. Informant and his son

Sandeep appears to have received grievous injuries. Statements of witnesses under Section 164 of the Code of Criminal Procedure are also recorded and therefore, taking into consideration the Police papers, it can be seen that there is evidence against the present applicants and therefore, their custodial interrogation is definitely needed. Hence, the discretionary extraordinary relief under Section 438 of the Code of Criminal Procedure cannot be given to them. Hence, Anticipatory Bail Application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

SPT