

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.489 OF 2022

1. Mohammad Karim Teli
2. Aasif s/o Babu Teli
3. Karim s/o Ramjan Teli ... Applicants

Versus

The State of Maharashtra ... Respondent

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WITH

ANTICIPATORY BAIL APPLICATION NO.329 OF 2022

Rahim s/o Ramzan Teli ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. B. R. Waramaa, Advocate for applicants in both the cases.
Mr. V. M. Kagne, APP for the respondent – State in both the cases.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 04.05.2022

ORDER :-

. All the applicants are apprehending their arrest in connection with Crime No.03 of 2022 registered with Amalner Police Station, Dist. Jalgaon for the offences punishable under Sections 307, 452, 143, 147, 149, 120-B of Indian Penal Code.

2. Heard learned Advocate Mr. B. R. Waramaa for the applicants in both the cases and learned APP Mr. V. M. Kagne for the respondent – State in both the cases.

3. It has been vehemently submitted on behalf of the applicants that the applicants have been falsely implicated. In fact, the incident had happened in a different way, but a colour has been given differently. Applicant in ABA No.329 of 2022 had received injuries in the incident, yet he has been made as an accused. There is property dispute and even if we consider the FIR as it is, as against applicants in ABA No.489/2022 the allegations are that they had assaulted the father of the informant by stick, iron pipe, hockey stick and kicks. As against the applicant in ABA No.329/2022, it is stated that he had assaulted the informant by stick and caught hold of the informant when one Anam Teli had tried to stab in the stomach of the informant. He ducked the same, as a result of which, the knife after causing injury to the right side of his stomach, got stabbed in the stomach of applicant in ABA No.329/2022. For these allegations, the custodial interrogation of the applicants is not necessary. Accused Anam Teli, Babu Ramjan Teli, Aasim Teli, Zishan Teli, Nahid Rahim Teli were released by the learned Sessions Judge on anticipatory bail, whereas Raeesa Karim Teli and Shakeela Babu Teli have been released on anticipatory bail by this Court, therefore, the present

applicants deserve to be released on bail.

4. Learned APP strongly opposed the application and submitted that the informant had lodged the FIR almost immediately after the incident. The informant had sustained simple injuries, whereas his father had sustained CLW parietal region, CLW below left eye, blunt trauma to right shoulder, right and left forearm and lower leg. The clinical analysis would show that there was minimally displaced fracture of distal 1/3rd shaft of left ulna and oblique fracture of proximal 1/3rd of shaft of right tibia. Therefore, he had sustained grievous injuries. Only because the informant had avoided the stab tried to be given by Anam he could survive and, in fact, when the applicant in ABA No.329/2022 had caught hold of the informant, the Anam dared to give that blow, yet not succeeded. The weapons allegedly used in the commission of the crime by the applicants are to be recovered and, therefore, their physical custody is required.

5. At the outset, it is to be noted that there appears to be property dispute between the parties and as per the informant, in all, 12 persons had attacked him and his family. There is cross complaint, however, it appears to be belated. It was registered at 1.31 a.m on 08.01.2022 under Section 326 read with Section 34 of Indian Penal Code against

informant – Akhtar Teli, his father Razzaq Teli and one Jalal Ramjan Teli. Anyway, in the present FIR also, there appears to be injury caused to the applicant in ABA No.329/2022 and the informant has his own story to say as to how that injury was caused to the accused. As against applicants in ABA No.489/2022, it is stated that they had wooden stick, iron pipe, hockey stick and they assaulted the father of the informant and as aforesaid, the fracture i.e. grievous injury is caused to his left ulna and right tibia. It can be said that the injuries caused to those parts of the body will not attract Section 307 of Indian Penal Code independently, but still it would be for the prosecution to prove that it would with an intention to kill. Police have not invoked Section 326 of Indian Penal Code and only Section that has been invoked against the body is Section 307 of Indian Penal Code. It is not clear as to whether it is in respect of both the witnesses/injured because the informant says that with an intention Anam Teli had tried to stab him when applicant in ABA No.329/2022 after assaulting him by stick had caught hold from the backside. Under such circumstance, the interim protection granted earlier to the applicants, deserve to be confirmed, however, with further stringent conditions.

6. The learned Advocate for the applicant submits that the applicants are now started residing separately in Amalner, that means they are not

residing at the given address in the application. In order to avoid further conflicts and repetition of any serious crime, necessary directions are required to be given as condition. Hence, the following order :-

ORDER

- I) Both the applications stand allowed.
- II) The interim relief granted earlier to the applicant in ABA No.329 of 2022 vide order dated 23.03.2022 stands confirmed and made absolute. In other words, in the event of arrest of applicant in ABA No.329 of 2022 i.e. Rahim s/o Ramzan Teli in connection with Crime No.3 of 2022 registered with Amalner Police Station, Dist. Jalgaon for the offences punishable under Sections 307, 452, 143, 147, 149, 120-B of Indian Penal Code, he be released on P. R. Bond of Rs.30,000/- with two solvent sureties of Rs.15,000/- each, if not already released.
- III) The interim relief granted earlier to the applicants in ABA No.489 of 2022 vide order dated 19.04.2022 stands confirmed and made absolute. In other words, in the event of arrest of applicants in ABA No.489 of 2020 viz. (i) Mohammad Karim Teli, (ii) Aasif s/o Babu Teli and (iii) Karim s/o Ramjan Teli in connection with Crime No.3 of 2022 registered with Amalner Police Station, Dist. Jalgaon for the offences punishable under Sections 307, 452, 143, 147, 149, 120-B of Indian Penal Code, they be released on P. R. Bond of Rs.30,000/- with two solvent sureties of Rs.15,000/- each, if not already released.

IV) The applicants shall remain present before the Investigating Officer on every Tuesday and Thursday between 10.00 a.m. to 12.00 noon till filing of charge-sheet and cooperate with the investigation.

V) The applicants shall not reside or visit Anarali Mohalla, Garib Nawaj Chowk, Gandhlipura, Amalner till the conclusion of trial. They should reside elsewhere, and before submission of bail papers, the applicants should give complete address of their proposed residence with their mobile numbers to the trial Court as well as to the Investigation Officer.

VI) Each one of them should also go on sharing their location with the Investigating Officer once in a week.

VII) It is clarified that in case of failure on the part of applicants to observe the conditions of the bail, the prosecution is at liberty to file an application under Section 439(2) of the Code of Criminal Procedure.

[SMT. VIBHA KANKANWADI, J.]

scm