

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

**ANTICIPATORY BAIL APPLICATION NO.531 OF 2022
WITH APPLN/1603/2022 IN ABA/531/2022**

1. Vinod Mohan Murkute
2. Shrikant Mohan Murkute ...Applicants

Versus

The State of Maharashtra ...Respondent

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Advocate for Applicants : Mr. Karpe Rahul R.

APP for Respondent/State : Mr. V.M. Kagne

Advocate for Assist to P.P : Ms. Rashmi S. Kulkarni h/f Mr. Sanket
Kulkarni

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CORAM : S.G. MEHARE, J.

DATED : 05th JULY, 2022.

PER COURT:-

1. Heard learned counsel for the applicants, learned APP for the State and learned counsel Ms Rashmi Kulkarni as assisting to Public Prosecutor.
2. Learned counsel for the applicants has vehemently argued that the first report lodged by the applicants against the first informant is the genesis for the number of FIRs against each other. The injuries were simple; however, the complainant exaggerated the allegations. The recovery part is completed. The co-accused nos. 3 and 4 have been released on pre-arrest bail. He also added that a report was lodged against the present complainant. The offence under

Section 307 of the Indian Penal Code is not spelt out. The learned Sessions Judge has not considered this aspect, and on this sole ground, the pre-arrest bail has been declined. There is enmity between the informant and the applicants. There were FIRs against applicant no.1. However, in one of the FIR, he was acquitted. The injured suffered a sole injury. The Investigating Officer knows better why he added Sections 326 and 324 of the Indian Penal Code when the offence was initially registered under Section 307 of the Indian Penal Code. The learned counsel for the applicant tried to convince the Court that the custodial interrogation would not be required since it is the outcome of the enmity.

3. The learned APP has vehemently argued that there are antecedents to the discredit of the applicants. The overt act of the applicants can be seen in the FIR itself. They have committed the present crime with a plan. They went to the injured in a public place to have a grievance about the report lodged by the first informant against them. They have assaulted the injured. Some of them are senior citizens. During the investigation, it has also been transpired that the injured went for shelter in the house. The accused went there and again assaulted them. The overall conduct of the applicants is most aggressive. As far as the offence under Section 307 of the Indian Penal Code is concerned, the nature of injuries is immaterial. Though the injuries are simple, the injury was caused to the parietal bone.

Another injury is a fracture. Therefore, considering the overall conduct and the role played by these applicants, they are not entitled to anticipatory bail.

4. The contents of the FIR reveal that they went to the place where the first informant had taken the animals. The specific allegations have been levelled against the applicants that they were holding the iron rods, bulky pipes and wooden logs. The applicant Vinod assaulted the first informant on his head and thereby caused injury to his parietal bone. Then again, both the applicants assaulted his cousin grandfather with an iron rod. The learned APP was correct in arguing that in an offence under Section 307, the injury is immaterial. It appears that the injury has been caused to the vital organ, i.e. parietal bone of the first informant. The applicants have antecedents to their discredit. As per the case of the applicants, there are counter reports against one another. Be that as it may, the offence is apparently serious, and the applicants were aggressive. In view of the previous enmity, the gravity of the offence, and the aggressiveness of the applicants, the Court is of the view that the applicants have no case for pre-arrest bail. Hence, the application stands dismissed.

5. Criminal Application No.1603 of 2022 is allowed.

(S.G. MEHARE, J.)