

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

934 ANTICIPATORY BAIL APPLICATION NO.698 OF 2022

1. SOHEL KALANDAR SHAIKH
2. KALANDAR KARIM SHAIKH .. Applicants

VERSUS

THE STATE OF MAHARASHTRA .. Respondent

...
Advocate for Applicants : Mr. G.R. Syed
APP for Respondent / State : Mrs. V.S. Choudhari
...

CORAM : **SARANG V. KOTWAL, J.**

Date : JUNE 10, 2022

PER COURT :-

1. The applicants are seeking anticipatory bail in connection with C.R. No.191 of 2022 registered at Jamkhed police station dated 03.05.2022 for the offence under Section 307, 323, 504, 506 r.w. 34 of the I.P.C.

2. Heard Mr. G.R. Syed, learned Counsel for the applicants and Mrs. V.S. Choudhari, learned APP for the Respondent / State.

3. Applicant no.1 is the husband and applicant no.2 is the father-in-law of the first informant.

4. The FIR mentions that there was quarrel between the informant and her in-laws and, therefore, she was residing with her parents. Some court proceedings were also going on. On 30.03.2022 the informant went back for cohabitation at her matrimonial house. On 29.04.2022 when she made a phone call to her parents, the family members of the applicants got angry. The applicants and their family members abused her. Applicant no.1 assaulted her with fists and kick blows. They discussed amongst themselves that the informant should be murdered with a sword, which was in the house. Applicant no.2 took out the sword which was kept inside the bed and handed it over to his son Adil, who gave a blow, but informant saved herself. She took her daughter with herself and came out of the house. After that, she went back to her maternal home. Initially, she did not tell about this incident to anybody, but after assurance of her parents and her brother, she told them about the incident and then, the FIR is lodged.

5. Learned Counsel for the applicants submitted that the FIR is a result of matrimonial dispute between applicant no.1 and the informant. Applicant no.1 had filed a petition for restitution of conjugal rights, which itself shows that the informant was not residing with the applicants. The matter had reached the Lok-Adalat

and the Roznama also shows that on 28.03.2022 an adjournment was sought on behalf of the informant for filing her say and next date was kept on 06.05.2022. According to learned Counsel for the applicants, this shows that the informant did not reside with the applicants and, therefore the averment in the FIR that she started residing with the applicants from 30.03.2022 is false. On the basis of this record, he further submitted that the manner of incident described in the FIR shows that the incident could not have taken place.

6. Learned APP opposed this application based on the allegations in the FIR and submitted that, bail should not be granted to the applicants.

7. I have considered these submissions. I find considerable substance in the submissions of learned Counsel for the applicants that the matrimonial dispute has led to filing of this FIR. The dispute had reached Lokadalat and on 28.03.2022 the next date was given as 06.05.2022. On 28.03.2022 an adjournment was sought for filing say on behalf of the informant. It shows that the matter was not compromised and the informant had no intention to go back to reside with the applicants. There was no reason for her to go to reside with the applicants within two days from 28.03.2022 and no such

information was provided to any of the Courts where the matrimonial disputes were pending. There is no other independent evidence to support to the contention of the informant that she had gone to reside with the applicants on 30.03.2022. Even otherwise, if the applicants and their family members wanted to cause harm to the informant, it was an easy job for them because she was all alone and all the family members were present in the house, but no harm was caused to the informant. The story appears to be either false or exaggerated. In this view of the matter, custodial interrogation of the applicants is not necessary and, therefore, they need to be protected by an order of anticipatory bail. Hence, the following order is passed.

ORDER

(i) In the event of arrest of the applicants in connection with C.R. No.191 of 2022 registered at Jamkhed Police Station, the applicants are directed to be released on bail on their executing P.R. Bond in the sum of Rs.25,000/- (Rs.Twenty Five Thousand) each, with one or two sureties each, in the like amount.

(ii) The applicants shall attend the concerned Police Station as and when called by the Investigating Officer and shall co-operate with the investigation.

(iii) The Anticipatory Bail Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)

GGP