

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.812 OF 2022

NAMDEV DATTATRAY KATORE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Rahul R. Karpe
APP for Respondent / State : Mr. V. M. Kagne
Advocate to assist PP : Mr. Kuldeep S. Patil
...

CORAM : S. G. MEHARE, J.

DATE : 01-08-2022

PER COURT

1. Heard the learned counsel for the applicant and the learned APP for the respondent/State and learned counsel assisting the learned APP.

2. It is a case of the applicant that the applicant's family and the family of the complainant have civil disputes. The suits were pending between them. The incident happened on 3.4.2022. Both the parties as usual have lodged complaints against each other making general allegations of assault. A crime has also been registered against the applicant and the complainant. Considering the allegations made by both the parties against each other, it appears that there was a free fight and both parties used weapons. It has been alleged against the applicant he has caused

a injury to one Vidya by pelting stone on her head. The said Vidya is an accused in the counter report lodged by the present applicant.

3. Learned counsel for the applicant has vehemently argued that the police have seized alleged weapon stone from the spot. Therefore, nothing is to be recovered from the applicant. In the circumstances of the case, the applicant may be released on anticipatory bail.

4. Learned APP for the respondent/State has strongly opposed the application contending that the offence is serious. He has also referred to documents placed on record by the learned counsel assisting him and would argue that there were antecedents to the discredit of the applicant. The applicant is an accused involved in the similar offence. Vidya suffered a fracture. Both the learned APP and the learned counsel assisting him requested for the rejection of the application.

5. Since the recovery of weapon is not disputed, the Court put a question to the learned APP, whether the custodial interrogation of the applicant is still required ? He has a only answer that the applicant has antecedents to his discredit and the offence is serious. He has pressed into service the antecedents to the discredit of the applicant. The learned counsel for the applicant states that the applicant has left the village.

6. No doubt, the gravity of the offence is a ground to refuse the bail. But, the prosecution has no case that the applicant has intervened the investigation. Both parties have assaulted each other and caused injuries by using weapons. The stones and bricks were allegedly used by both parties. It was an assault against the assault. They have a civil dispute about the field. Considering the nature of dispute and the way of the incident along-with recovery of weapon i.e. stone from the spot of incident, this Court is of the view that no purpose would be served if the applicant is sent for custodial interrogation. Hence, the following order -

- i) The application is allowed.
- ii) The interim protection granted to the applicant by order dated 01.07.2022 is confirmed on the same terms and conditions.

**(S. G. MEHARE)
JUDGE**