

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

24 ANTICIPATORY BAIL APPLICATION NO.818 OF 2022
WITH APPLN/2260/2022 IN ABA/818/2022

AMOL GANPAT PATIL
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Mayure Pramod C.
APP for Respondent-State : Ms. V. S. Choudhari.
Advocate for applicant to assist APP : Mr. Anup D. Mane h/f
Mr. Amol S. Sawant.

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CORAM : S. G. MEHARE, J.
DATE : 25.07.2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State along with learned counsel Mr. Mane assisting the prosecution.
2. Criminal Application No.2260 of 2022 is allowed.
3. Learned counsel for the applicant has vehemently argued that the suit between the applicant and his neighbouring land owner is pending before the Court. The dispute is regarding the *Bandh* i.e. boundary between their fields. However, on the date of the alleged incident, the neighbouring land owner engaged the first informant. He was damaging the *Bandh*. Therefore, the applicant requested him not to break the *Bandh*.

The applicant suddenly took the spanner from the tool box and assaulted the complainant. The applicant also lodged the report against the complainant.

4. Learned counsel for the applicant has vehemently argued that considering the nature of injury, the offence under Section 326 of the IPC would not attract. He has referred to the definition of grievous injury to satisfy the Court that no case of offence under Section 326 is made out. He has vehemently argued that in the circumstances of the case, the custodial interrogation of the applicant is not necessary.

5. Learned APP along with learned counsel Mr. Mane assisting her have vehemently argued that the applicant has used deadly weapon i.e. iron rod and caused the fracture injury to the fingers of the hands of the first informant. Considering the injury sustained to the applicant, Section 326 of the IPC has been correctly applied. The iron rod is yet to be recovered. Therefore, the custodial interrogation of the applicant is essential.

6. Perused the papers produced by the learned APP, the application along with the documents placed there with. The arguments advanced by the learned counsel for the applicant atleast shows that the incident happened. The applicant and

the complainant both alleging each other. The prosecution has the medical evidence showing the fracture injury to the applicant. Deadly weapon like iron rod has been used in the crime. The weapon is yet to be recovered. Which offence is made out may be decided by the Trial Court. The prosecution has the *prima facie* material for the custodial interrogation of the applicant. Hence, this Court is not inclined to grant the anticipatory bail to the applicant.

7. Therefore, the application stands dismissed.

(S. G. MEHARE, J.)

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vmk/-