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

ANTICIPATORY BAIL APPLICATION NO.857 OF 2022

**BALU JAGANNATH KOTKAR
VERSUS
THE STATE OF MAHARASHTRA**

Mr Sanjay D. Kotkar, Advocate for applicant;
Ms V. S. Choudhari, A.P.P. for respondent

CORAM : S. G. MEHARE, J.

DATE : 2nd August, 2022

PC.

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent.
2. The learned counsel for the applicant submits that the applicant is village Sarpanch. He had defeated the first informant in the village panchayat elections. They are, therefore, strong rivals. The complainant was annoyed since the applicant defeated him. He was in search of an opportunity to implicate the applicant in false crime. The learned counsel for the applicant has submitted that the incident happened on 07.05.2022 but the crime was registered on 13.5.2022. He has filed another report lodged by co-accused Sudam. However, in the said report the presence of the applicant is not mentioned. He has filed the report immediately on the next day of the incident. The

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first information report against the applicant reveals that the complainant went to the police station. The police sent the complainant to the Civil Hospital for treatment. Till 13.05.2022, there was nothing against the applicant but his name has been added after thought and the false allegations have been levelled against him that he assaulted the complainant with iron pipe and caused a fracture to his finger. Since the applicant had been elected as a member and Sarpanch of the village, the rival group is in continuous search of the cause to bring the elected members down. Therefore, the anticipatory bail may be granted.

3. The learned APP has strongly opposed the application. She has referred to the injury certificate dated 07.05.2022. The middle finger of the complainant was seen fractured in the X-ray report. She has also referred to the statement of a witness recorded on 13.05.2022. She would submit that the weapon used in the offence is to be recovered from the applicant. Therefore, the applicant has no case for anticipatory bail.

4. *Prima facie*, it appears that the applicant has been involved in the crime. The fact that the applicant defeated the complainant has not been denied. In small villages there used to be serious political rivalry. The record does not disclose the immediate disclosure of the

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name of the applicant when the history was recorded by the Medical Officer. The injured was knowing the applicant well. The explanation of the learned APP for delay, that the complainant was under treatment, cannot be accepted since the injured was unconscious and unable to give the statement. Normally, the anticipatory bail may be refused where the recovery of weapon is essential, but the Court has to consider the facts of each case. Considering the political rivalry, possibility of making allegations against the applicant in such way that he could not even get anticipatory bail, cannot be ruled out. The first information report was lodged against the present complainant on 08.05.2022 about the same incident. However, in that report, the applicant was not shown present. Considering the facts of the case, the delay in lodging the report and the absence of the applicant in earlier report lodged by the co-accused Sudam, this Court is of the view that the applicant is entitled to anticipatory bail. Hence, the following order :-

- i) The application is allowed.
- ii) In the event of arrest, the applicant Balu Jagannath Kotkar be released on bail, on executing P.B. and S.B. of Rs.20,000/- with one solvent surety of the like amount, in C.R.No. 328 of 2022, registered with M.I.D.C. Police Station, Ahmednagar, for the offence punishable under Sections 323, 324, 427, 504, 506, 326

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read with Section 34 of the Indian Penal Code; on the conditions to attend the police station on 4th , 5th , 6th and 8th August, 2022, between 11.00 a.m. and 1.00 p.m. and shall co-operate with the investigation.

(S. G. MEHARE, J.)

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