

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.951 OF 2022

1. MAHESH NIVRUTTI VAIRAGAR
2. NIVRUTTI MANIKRAO VAIRAGAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Sudarshan J. Salunke
APP for Respondent : Mr. K. S. Patil
...

CORAM : S. G. MEHARE, J.

DATE : 11-08-2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned APP for the respondent/State.
2. Both the parties have lodged the report against each other of the incident happened on 13.06.2022. The complainant and his sons were the assailants. The complainant did not pay the rent of tractor to applicant No.2. Both the parties have alleged the incident of assault.
3. The learned counsel for the applicants would submit that the first information report does not disclose the use of weapon or assault at the hands of applicants with deadly weapon. The complainant and his family were aggressive. They were about to assault the family of the applicants. That time, their son Gopal

was running the tractor. Since the complainant and his family were about to assault him, he fled away leaving the tractor in running condition. Hence, the accident happened. The complainant and his son suffered the injuries in the said accident. Except instigation, there are no allegations; therefore, anticipatory bail may be granted to the applicants.

4. The learned APP has strongly opposed the application. He would submit that the applicants have actively instigated Gopal to run the tractor on the person of the complainant. Therefore, the applicants have played active role in committing the crime. The offence is serious. The applicants are not entitled to anticipatory bail.

5. Perused the first information report and investigation papers. Both the parties have lodged report against each other making allegations and counter allegations of causing injuries by the tractor. Though the report is belated, the injured complainant was immediately admitted to the hospital. Therefore, the benefit of causing delay in lodging FIR cannot be given to the applicants. However, the allegations against the applicants are barely instigating to commit the crime. There are no allegations of using weapon in the crime. Therefore, the custodial interrogation of the applicants would serve no purpose. Hence, the following order :-

i) The application is allowed.

- ii) In the event of arrest, applicant Nos. (1) Mahesh Nivrutti Vairagar and (2) Nivrutti Manikrao Vairagar be released on bail, on furnishing PB and SB of Rs.20,000/- each with one solvent surety of like amount, in C.R. No. 0160 of 2022 registered with Police Station Daithana, District Parbhani, for the offence punishable under Sections 307, 326, 504, 506, 114 read with Section 34 of the Indian Penal Code, with condition to attend the police station as and when called by the Investigating Officer on written notice.

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

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