

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

913 ANTICIPATORY BAIL APPLICATION NO.987 OF 2022

1. KAKASAHEB NAMDEO MORE
2. ANIKET NETAJI DHOLE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Deshmukh Vivekanand B.
APP for Respondent-State : Mr. S. B. Narwade.

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CORAM : S. G. MEHARE, J.

DATE : 18.08.2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned APP for the respondent-State.

2. The learned counsel for the applicants would submit that the complainant and his relatives were assailants. They have assaulted first to the present applicants and others and caused the serious injuries. However, to counter the allegations, a false report has been lodged. No injury to the head as alleged was caused. The weapon like sword and other weapons were recovered from the spot of the incident. No serious injuries were caused to the injured. Applicant No.1 is in Armed Services. However, he has been falsely implicated in the crime. There are no allegations against applicant No.2. Considering

the false allegations and the nature of injuries sustained, the applicants are entitled for the anticipatory bail.

3. Learned APP has strongly opposed the application. He has referred to the various injury reports and argued that applicant No.1 was aggressive and he was saying that he is from Armed Forces. Therefore, three murders are excused to him. Few weapons have to be seized. Therefore, the custodial interrogation of the applicants is essential.

4. The FIR reveals that the incident happened on 02.07.2022. Applicant Kakasaheb has lodged the report of the said incident on 03.07.2022 at 11.52 hours and the present FIR is lodged against the present applicants on 03.07.2022 at 12.42 hours. However, the date and time of incident in both the FIR is same. In both the FIR, it has been alleged that the weapon like axe were used to cause the injury. In the report lodged by the present applicant Kakasaheb, it has been alleged that one Vijay Bagal assaulted him with axe on his head and one Ram Gaikwad has also caused injury to applicant No.2. The similar allegations have been made against the applicants that they assaulted the first informant with axe.

5. It appears that both the parties were aggressive and armed with deadly weapons and beat one another with deadly

weapons. The injury reports support the contentions of the learned APP. The use of the weapon is material. The nature of injury would immaterial to attract Section 307 of the IPC. Few weapons have been seized from the spot of incident. Both sides were alleging that the axe has been used in committing the crime. However, only one axe is recovered from the spot of the incident. Therefore, the learned APP has rightly pointed out that the another axe is to be recovered from the applicant Kakasaheb.

6. Considering the role attributed to the applicant No.1 Kakasaheb, this Court is not inclined to grant him anticipatory bail. However, considering the role attributed to applicant No.2 Aniket, there appears no specific allegations and use of deadly weapons by him. Therefore, he may be entitled to anticipatory bail. Hence, the following order :

ORDER

- (i) The application is partly allowed.
- (ii) Anticipatory Bail Application for applicant No.1 - KAKASAHEB NAMDEO MORE is stands dismissed.
- (iii) In the event of arrest, applicant No.2 - ANIKET NETAJI DHOLE, be released on bail on furnishing P.B. and S.B. of Rs.25,000/- (Rupees Twenty Five Thousand only) with one solvent surety in the like

amount in Crime No.148 of 2022, registered with Police Station Bembli, District Osmanabad for the offences punishable under Sections 143, 147, 148, 149, 307, 324, 323, 504, 506 of the IPC, on the condition that he shall attend the Police Station as and when called by the Investigating Officer on written notice.

(S. G. MEHARE, J.)

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vmk/-