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

**ANTICIPATORY BAIL APPLICATION NO.990 OF 2022
WITH APPLN/2610/2022**

**RAMESHWAR @ BHAUSAHEB SHIVAJI PALVE
VERSUS
THE STATE OF MAHARASHTRA**

**WITH
ANTICIPATORY BAIL APPLICATION NO.1044 OF 2022
WITH APPLN/2622/2022**

**UTKARSH KIRAN JADHAV AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. Bhosle Abhaysinh K.
APP for Respondent/State : Mr. V.M. Kagne
Advocate for Assist to PP : Mr. Vikram R. Dhorde

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CORAM : S.G. MEHARE, J.

DATED : 22nd AUGUST, 2022

PER COURT:-

1. Heard learned counsel for the applicants, learned APP for the State and learned counsel Shri Vikram R. Dhorde assisting the learned APP.
2. There is an unfortunate incident happened after winning the election of the local body. It has been alleged against the applicants that on the day of the incident when victory procession was passing through their home, the applicants being defeated candidates

assaulted many persons mercilessly. They have axe, swords, long knife, sticks and wooden logs.

3. Learned counsel for the applicants would submit that in FIR, there are no specific allegations against the present applicants. Few of the accused have been arrested and released and few are still behind the bar. The present applicants are falsely implicated in the crime. Therefore, they may be released on anticipatory bail.

4. Learned APP has strongly opposed the application contending that in a statement under Section 164 of the Criminal Procedure Code of Vishnu Palve, it has been specifically stated that the applicant Pushpa was instigating and pelting the stones. In a statement under Section 164, it has been alleged that Utkarsh and Rameshwar used the rod and one witness named applicants Pushpa and Ramnath. They have used the rod to cause the injury. Therefore, their custodial interrogation is necessary to recover the weapon used by them.

5. Learned counsel for the applicant has vehemently argued that the statement of Vishnu has been recorded under Section 164 of the Criminal Procedure Code on 03.08.2022 i.e. after the interim protection granted to the applicant Rameshwar and others. The statements have been given deliberately to show the role which was totally absent in the FIR. He would point out that in the FIR, there is absolutely no mention about the use of iron rod but only to make the

offence serious, incorrect statement under Section 164 of the Criminal Procedure Code have been made.

6. Perused the papers. The FIR is silent as regards the use of iron rod by either of the accused. The role attributed to the applicant Pushpa is also silent. It is an outcome of the political rivalry. No doubt, serious injuries have been sustained to the injured the member from the winning panel. The FIR is also registered against the complainant and others. Be that as it may, though the FIR is not the encyclopedia of the entire incident, but the perusal of the FIR reveals that specific allegations have been levelled against various assailants with the use of weapons and causing injury to particular persons. Though the injured subsequently named the present applicants with specific roles, the possibility of giving such statement afterthought cannot be ruled out. The FIR is in detail. That does not show the specific role attributed to these applicants. Therefore, they are entitled to the anticipatory bail. Hence, the following order :

ORDER

- (A) Both the applications are allowed.
- (B) Interim protection granted to the applicants in both the applications by order dated 27.07.2022 and 04.08.2022 are confirmed on the same terms and conditions.

(4)

(C) Criminal Application Nos.2622 of 2022 and 2610 of 2022
are allowed.

(S.G. MEHARE, J.)

Mujaheed//