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

ANTICIPATORY BAIL APPLICATION NO.1114 OF 2022

**SHAIKH SADEQ S/O. SHAIKH ABDUL RAJJAK AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicants : Mr. V.A. Mundhe h/f Mr. Thombre S.S.
APP for Respondent/State : Mr. S.B. Narwade

...

CORAM : S.G. MEHARE, J.

DATED : 27th SEPTEMBER, 2022

PER COURT:-

1. Heard learned counsel for the applicants and learned APP for the State.
2. Herein the case, the cognizance has been taken by the police sou-moto after watching the viral clip of the incident. The complainant/injured never lodged the report; however, the prosecution has an explanation that the complainant was under the pressure of the applicants and other co-accused, therefore, he did not lodge the report. To support this contention, a sufficient time was granted to the investigating officer to collect the evidence particularly the statement of the complainant that he was under the threat and pressure of the accused and hence, he has given no objection for bail by way of an affidavit. Today again, the panchnama of the pen drive

video has been produced wherein the communication of words uttered by the accused have been reproduced.

3. Relying on the panchnama, learned APP has vehemently argued that the weapons like sticks have been used to cause the injury to the complainant. This weapon is to be recovered. Unfortunate to say that the person who has suffered the injury has not been examined by the investigating officer to verify whether really he was under the pressure or threatened by the applicants to sworn in a false affidavit.

4. Be that as it may, in the absence of any cogent and reliable evidence more particularly failure to record the statement of the complainant as regards the threat and pressure, it cannot be believed that the affidavit sworn in by the complainant was under pressure and threat of the applicants. The parties have already settled their dispute amicably and wanted to live peacefully. However, the police are strongly insisting to refuse the anticipatory bail for the reasons best known to the investigating officer. In the absence of any cogent and reliable evidence, it cannot be believed that the applicants threatened the complainant and pressured him to settle the dispute.

5. Learned APP has strongly opposed the application contending that there are three crimes registered against applicant no.1. The law is well settled that registration of the crime against any person may not be the ground to refuse the bail. The Court has

to examine the facts independently of each case. Hence, the following order :

ORDER

- I) Application is allowed.
- II) Interim protection granted to the applicants by order dated 26.08.2022 is confirmed on the same terms and conditions.

(S.G. MEHARE, J.)