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

**ANTICIPATORY BAIL APPLICATION NO.1120 OF 2022  
WITH APPLN/2822/2022**

1. Jeebhau Uttam Ghongade
2. Shantanu Jeebhau Ghongade ...Applicants

VERSUS

1. The State of Maharashtra
2. District Superintendent of Police  
Ahmednagar ...Respondents

...

Mr. Rajendra L. Kute, Advocate for the applicants.

Mr. K.S. Patil, APP for the respondent-State.

Mr. Sanket S. Kulkarni h/f Ms. Rashmi S. Kulkarni, Advocate for Assist  
to P.P.

...

**CORAM : S.G. MEHARE, J.**

**DATED : 13<sup>th</sup> SEPTEMBER, 2022**

**PER COURT:-**

1. Heard learned counsel for the applicants and learned APP for the State with learned counsel Mr. Sanket Kulkarni assisting the learned APP.

2. As usual, there are counter reports against each other. The two groups had a boundary dispute. The incident happened on 28.04.2022. Both the parties have assaulted each other by using the weapons. Both the parties have also suffered the injuries. They have reports against each other even before the present incident.

3. Learned counsel for the applicants has vehemently argued that though the allegations have been levelled against the applicants Shantanu and Mangalbai that they have assaulted the first informant-injured with sticks on his hands, legs and back, but there are no corresponding injuries. As far as the allegations against Jeebhau Uttam Ghongade are concerned, it has been alleged against him that he assaulted the injured with iron rod and caused fracture to his nasal bone. However, learned counsel for the applicants would submit that the applicant was on interim protection. He has co-operated with the Investigating Officer. The Investigating Officer has recovered the iron rod and stick from him and recovery panchnama has been drawn. Therefore, nothing is to be recovered from the applicants. Since weapons have been recovered, their custodial interrogation would serve no purpose.

4. Learned APP and learned counsel assisting the learned APP have vehemently opposed the application contending that the applicants were most aggressive and created a terror. They have assaulted mercilessly to the injured and caused him serious injury. Barely recovery of the weapons is not a ground to grant anticipatory bail. Considering the gravity of the offence, the application may be rejected.

5. Perused the papers produced by the learned APP. It reveals that both the parties have lodged the report against each

other. They have caused the injury to each other. The injury report supports the contention of the prosecution that a grievous injury has been suffered by the complainant-injured and his nasal bone was fractured. As far as the allegations against the applicant Shantanu is concerned, it has been alleged that he assaulted the injured with stick on his hands, legs and back. However, the prosecution has no injury report to that effect. The stick allegedly used by him has been seized from applicant no.1. So far as applicant no.1 is concerned, vehement arguments have been advanced by the learned APP and learned counsel assisting the learned APP that there should be some lesson to him that he should not repeat the crime. He has created the terror, therefore, he may not be granted bail. The offence is apparently serious but the purpose of custodial interrogation must be satisfied. Normally in the case of use of weapon, the recovery of weapon is essential and for that purpose, custodial interrogation is granted. In the case in hand, when the applicant no.1 was on interim protection, the police have seized the weapon allegedly used in the crime. The prosecution has no case that the trace evidence is to be collected from applicant no.1. Having regard to the entire facts of the case and particularly recovery of the weapon, this Court is of the view that custodial interrogation of the applicants would not help the prosecution to have some more material evidence. Hence, the application deserves to be allowed. Hence, the following order :

(4)

**ORDER**

- (A) The Application is allowed.
- (B) Interim protection granted to the applicants by order dated 19.08.2022 is confirmed on the same terms and conditions.
- (C) Criminal Application No.2822 of 2022 is allowed.

**(S.G. MEHARE, J.)**

*Mujaheed//*