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

**ANTICIPATORY BAIL APPLICATION NO.1137 OF 2022
WITH APPLN/3026/2022**

1. Parmeshwar Bhagwan Nagare
2. Adinath Bhagwan Nagare
3. Vithal Nagorao Morage
4. Sudhakar Bhikaji Nagare
5. Gajanan Bhikaji Nagare
6. Navnath Dattrao Sangle ..Applicants

Versus

The State of Maharashtra ...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.1138 OF 2022
WITH APPLN/3086/2022**

1. Bhagwan Tukaram Nagare
2. Pralhad Sonaji Nagare
3. Gokarna Bhagwan Nagare
4. Nandabai Parmeshwar Nagare ...Applicants

Versus

The State of Maharashtra ...Respondent

...
Advocate for Applicants : Mr. Chondhekar Balaji S.
APP for Respondent/State : Ms. V.S. Choudhari
Advocate for Complainant : Mr. B.N. Magar

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

DATED : 20th SEPTEMBER, 2022

PER COURT:-

1. The applicants have apprehension of their arrest; hence, they are seeking bail under Section 438 of the Code of Criminal Procedure in Crime No.217 of 2022 registered with Aundha Nagnath Police Station, District Hingoli, for the offences punishable under Section 307, 395, 424, 447, 323, 107 of the Indian Penal Code.

2. Heard learned counsel for the applicants and learned APP for the State with learned counsel for the complainant at length. When this Court expressed disinclination to grant anticipatory bail, the learned counsel for the applicants sought time to seek instructions from the applicants on whether to withdraw the applications or not.

3. It has been alleged that the incident happened on 08.07.2022 at 10 am. The accused and another seven unknown persons entered the field of the complainant with a tractor. Applicants Parmeshwar, Vithal, Gajanan and Navnath were holding the iron rod, and applicant Adinath was holding the knife. Applicants Bhagwan and Pralhad were having sickles in their hands. Applicant Sudhakar was driving the tractor. Applicants Gokarna and Nandabai were having the chilly powder packet. Suddenly, all of them rushed at them. Applicant Sudhakar tried to run the tractor over Vithal Rambhau Nagare; however, he jumped by the side and suffered an injury to his left leg. Applicants Parmeshwar, Vithal, Gajanan and Navnath assaulted the husband of the complainant on his head, back,

left chest and both legs with a rod and broke his head, and injury was bleeding. Applicant Parmeshwar assaulted her with a rod on her right hand, legs and back. Applicant Adinath assaulted Sumanbai with a knife. She sustained the knife injury on her left hand and chin. Applicants Bhagwan and Pralhad holding the weapons, were instigating other accused. Applicants Adinath, Vithal and Gajanan also assaulted one Shashikalabai with an iron rod below her waist. Gokarnabai and Nandabai threw the chilly powder on the persons. Applicants Parmeshwar and Adinath snatched the golden ornaments and mobile handset.

4. Learned counsel for the applicants has vehemently argued that the family of the present applicants has lodged a counter-report against the complainant and his family members. They had a civil suit filed against each other. They also have filed many complaints alleging that the transactions between Bhagwan and Sudam were illegal money lending; therefore, a false crime was registered against the applicants. There is no iota of evidence against the applicants. They are innocent and have not committed any offence as alleged in the FIR. It was a money lending transaction; hence, a nominal sale deed was executed, and the possession was never handed over to Sudam Deshmukh. The informant tried to dispossess the applicants and their families illegally. Therefore, the suit was filed against Sudam Deshmukh, and it is pending. The

informant filed the suit in the year 2021; it is also pending. A Miscellaneous Civil Appeal has also been filed by applicant Bhagwan, Gokarnabai, Parmeshwar and Adinath against the informant Mandakini and it is also pending. There is no incriminating evidence against the applicants. Nothing is to be recovered from them. Hence, their custodial interrogation is not essential. Section 307 of the Indian Penal Code would not apply against the applicants. There is considerable delay in lodging the FIR, which has gone unexplained. The applicants have a good case for anticipatory bail.

5. Learned APP has strongly opposed the application contending that every applicant was armed with a deadly weapon. They have caused injuries to various persons. The chilly powder was also found on the spot of the incident. He also referred to the medical report to corroborate the contentions and allegations levelled against the applicants. He prayed to dismiss the application.

6. Learned counsel appearing for the complainant has vehemently opposed the application contending that the applicants have no regard for the Court orders. The applicant, Bhagwan, was continuously obstructing the possession of the first informant Mandakini over the land purchased by her. The temporary injunction order was issued in her favour. In utter disregard of the Court order, the applicants entered the field with a tractor and tried to dispossess them. Serious injuries have been caused to the injured. They were

immediately taken to the hospital; therefore, there was no delay in lodging the FIR.

7. Perused the papers produced by the learned counsel for the applicants as well as the prosecution. A perusal of the FIR itself shows that each of the applicants has played an active role in the assault and causing injury to the injured. They were armed with deadly weapons. Not only this, the tractor was also used to commit the crime. An attempt was made to kill one Vithal Rambhau Nagare; however, he sustained injuries to his leg due to running over the wheel of the tractor. The medical report also corroborates and supports the prosecution's case. The weapons are yet to be recovered, and recovery of weapons is essential.

8. Considering the allegation levelled against the applicants as well as the material collected by the Investigating Officer, this Court is of the view that the applicants have no case for anticipatory bail. Hence, both applications stand dismissed.

9. Criminal Application Nos.3026 of 2022 and 3086 of 2022 are allowed.

(S.G. MEHARE, J.)