

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1277 OF 2022
WITH APPLN/3382/2022 IN ABA/1277/2022

SURYA HUNYA VASAVE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicants : Mr. Amit S. Savale
APP for Respondent/State : Mr. K. S. Patil
Advocate for Complainant : Mr. Dipesh D. Pande

CORAM : S. G. MEHARE, J.

DATE : 06-10-2022

PER COURT :-

1. Heard the learned counsel for the applicants, the learned A.P.P. for the respondent/State and Mr. Pande, the learned counsel for the complainant.
2. The first information report reveals that the incident happened at the time of removal of encroachment. Bare allegations against the present applicants are that they assaulted the complainant with fist and blows. Except these allegations, there are no other allegations against the applicants.
3. Mr. Pande, the learned counsel for the complainant has opposed the application contending that the other co-accused who have assaulted with weapon are absconding. The applicants know their whereabouts. There are many cases registered against applicant No.2. However, he stated that cases registered against the applicant No.2 were under the Bombay Prohibition Act. He would submit that the offence is serious. The applicants are

supporting the accused absconding to disappear, therefore, the applicants have no case for anticipatory bail.

4. The learned A.P.P. has opposed the application and supported the contention of Mr. Pande, the learned counsel for the complainant.

5. Considering the allegations levelled against the applicants, it appears that they have assaulted the complainant with fist and blows. Merely the other co-accused, who have assaulted with deadly weapon, are absconding, may not be a ground to reject the anticipatory bail application. The antecedents against the accused is also not the ground to straight away refuse the bail. The Court has to deal with each case on its facts and the circumstances. There should be a purpose for arrest and custodial interrogation of the accused. Considering the allegations levelled against the applicants, there is nothing with the prosecution to have a custodial interrogation of the applicants. Hence, the following order :-

- i) The application is allowed.
- ii) The order dated 27.09.2022 granting interim protection is confirmed on the same terms and conditions of bail bonds with an additional condition to attend the police station as and when called by the Investigating Officer on written notice.
- iii) Criminal Application No. 3382 of 2022 is allowed.

(S. G. MEHARE)
JUDGE