

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

ANTICIPATORY BAIL APPLICATION NO.1461 OF 2021

Shri Sitaram S/o Rangnath Roundal

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.V.D. Sapkal, Senior Advocate i/b. Mr.Adinath B. Jagtap
Advocate for Applicant.
Mr.A.M. Phule, A.P.P. for Respondent-State.
...

WITH

ANTICIPATORY BAIL APPLICATION NO.1513 OF 2021

Kailas S/o Popat Anarase

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.Rahul R. Karpe Advocate for Applicant.
Mr.A.M. Phule, A.P.P. for Respondent-State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE OF RESERVING ORDER : 11th JANUARY 2022

DATE OF PRONOUNCING ORDER : 10th FEBRUARY 2022

ORDER :

1. Both these Applications are arising out of cross cases and for the sake of convenience those are taken together for the decision.

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2. Applicant in this Application is apprehending his arrest in connection with Crime No.313 of 2021 registered with Sonai Police Station, Taluka-Newasa, District-Ahmednagar for the offence punishable under Sections 307, 452, 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code.

3. Heard learned senior Advocate for the applicant and learned APP for the respondent – State.

4. It has been vehemently submitted on behalf of the applicant that the applicant has been falsely implicated when in fact applicant's wife has also filed First Information Report on 18th November 2021 before the same Police Station. Wife of the present applicant had suffered burn injuries due to the acid attack by the informant's side and therefore, she was admitted to Burn Center at Ahmednagar and from there, she has filed the First Information Report. In order to give a counter blast to that First Information Report, the First Information Report against the present applicant has been filed. The applicant in this case is serving as Associate Professor at Sonai College and he is also recognized Ph.D. Guide since 14th March 2012 in the faculty of commerce. He is Doctor of Philosophy and is working on various authorities in Savitribai Phule Pune University. There was rivalry since past between the family of the informant and the applicant which came to be developed because of the act of the informant's husband. One lady residing in the neighbour-hood had filed report against the informant and her husband for the offence punishable under Sections 354-A and 354-D of the Indian Penal Code. The present applicant and his wife are the witnesses to the said incident. The informant and her husband are annoyed with the fact that the applicant and his wife would

give evidence against the informant and her husband. The custodial interrogation of the applicant is not at all required for the purpose of the investigation and the co-accused in this crime have been enlarged on bail by the learned trial Court itself.

5. Per contra, the learned APP strongly opposed the application and submitted that a serious offence has been committed by the present applicant. The husband of the informant was brutally assaulted by the applicant and co-accused but any how, he has survived. There were disputes between the two families in the past and on that count the applicant and co-accused had gathered as members of unlawful assembly and they were armed with dangerous weapons like axe, iron rods and stick. Though the initial dispute was by the side of the road in front of the house of the informant, yet, after the informant and her daughter were man-handled and thrown on the ground from raised platform (ओटा), the applicant and co-accused barged into the house of the informant. Present applicant and co-accused Rajendra Anarase had entered the house and assaulted husband of the informant with axe on his forehead with an intention to kill. Though one axe is seized from co-accused Rajendra, the other weapons are required to be

recovered which were used by the present applicant in the commission of offence. Detailed investigation is contemplated in view of the fact that the applicant and co-accused are neighbours and definitely they would have had hatched up a conspiracy. Taking into consideration the seriousness of the offence and the fact that the injured had taken initial treatment at Ahmednagar and then was shifted to Sasoon Hospital, Pune, applicant does not deserve any sympathy.

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6. The applicant in this case is the injured husband of the informant who had lodged the First Information Report and registered as Crime No.313 of 2021 which is against the applicant in Anticipatory Bail Application No.1461 of 2021. The applicant in this case is apprehending his arrest in connection with Crime No.314 of 2021 registered with Sonai Police Station, Taluka-Newasa, District-Ahmednagar for the offence punishable under Sections 307, 326-A, 324, 323, 504, 506 read with Section 34 of the Indian Penal Code.

7. Heard learned Advocate for the applicant and learned APP for the respondent – State.

8. It has been vehemently submitted on behalf of the applicant that the wife of the present applicant had lodged the First Information Report earlier in point of time and this First Information Report against the present applicant is subsequent and therefore, it is the counter blast. No such incident had taken place as narrated in the First Information Report. The applicant himself was brutally attacked and had sustained severe injuries. He would not have committed any crime. Further, his son, co-accused was arrested and he has discovered certain articles including the alleged acid which was in fact toilet cleaner. Applicant's wife and daughter were released on anticipatory bail. They were nominally arrested and were released on bail. Now the custodial interrogation of the applicant is not at all necessary. Intentionally some role has been assigned to him in the First Information Report just to see that he should not get bail. But the medical papers produced along with the application would show that the applicant had sustained fracture of both nasal bones with defect in medial orbital wall with head injury. He was initially referred to Government Hospital, Ahmednagar

and thereafter he was shifted to Sasoon Hospital, Pune. Time and again the present applicant had lodged reports against Rajendra Maruti Anarase and his wife and even from them when the applicant was facing threat to life, those reports were given to the Police but the Police have not taken proper cognizance and therefore the incident appears to have taken place, but nothing is required to be recovered at the instance of the applicant. The photographs of the spot taken immediately from Mobile Phone of the applicant would show that he was brutally assaulted inside the house of the applicant by the rival group. Therefore, there was no question of applicant going outside the house and pouring acid on the person of the informant. The applicant is ready to abide by the terms of the bail.

9. Per contra, the learned APP strongly opposed the application and submitted that in fact the applicant has criminal antecedents. His neighbour had lodged report against the vulgar act done by the applicant and that act was captured by the CCTV installed at the house of the informant. That CCTV footage in the investigation of that offence was supplied by the present informant and her husband. Applicant got annoyed with that and he started quarreling with the informant as to why they had

provided the CCTV footage to the Police. Informant's husband had got down from his four wheeler and due to the mud that was accumulated he was parking the vehicle in front of the neighbour's house. At that time informant and her daughter were coming ahead by walk. At that time the present applicant rushed towards the husband of the informant with stone. They were tried to be stopped by the informant and her daughter but present applicant went inside his house and brought acid in a big plate and threw it on the person of the informant. Present applicant's son was holding acid bottle. Applicant's wife and daughters were having sticks. They had assaulted the informant and her husband with sticks. The acid fell down on the left hand and shoulder of the informant as well as face and left leg of her daughter. Few drops of the acid also fell on the person of neighbour Rajendra and his wife. All of them had then gone to the Police Station and were referred to medical treatment. The acid bottle and other articles have been recovered from the son of the applicant who was arrested on 18th September 2021. As regards the present applicant is concerned, he does not deserve any sympathy as he was the person who had triggered the incident and had also thrown the acid. A person accused of acid attack does not deserve sympathy.

10. At the outset, it can be said that when there are counter complaints / reports, certainly some incident has taken place and it is to be noted that the offence vide Crime No.313 of 2021 has been registered at 2.11 a.m. on 18th September 2021, whereas in Crime No.314 of 2021, which is in fact handwritten First Information Report, that has been registered at 2.27 a.m. on 18th September 2021. If both the First Information Reports are seen, it has been stated that information was received to the Police Station at about 15.00 hours on 17th September 2021. Then the question arises why the police would record the First Information Reports belatedly that too in consequent to each other. At this stage, we need not go into the technical point as to which is the subsequent First Information Report and whether it is a counter blow to the other First Information Report. The fact remains that applicant – Kailas Anarase has received severe injuries, whereas wife of applicant – Sitaram Roundal and his family members as well as the neighbours had received burn injuries and which is stated to be due to the acid. Now the acid bottle has been recovered in Crime No.314 of 2021 from co-accused Deepak and definitely it would be brought on record as to whether it was a toilet cleaner. The fact remains is that those

persons had received burn injuries and they have been treated as persons with acid attack.

11. If we consider the medical reports of applicant – Kailas Anarase, it can be seen that he has sustained grievous injuries to his head, face etc., but it states that those would have been caused by blunt object. Therefore, whether axe was used for causing those injuries is yet to be the subject of investigation. The axe allegedly used by accused Rajendra Anarase has been recovered from him under Section 27 of the Indian Evidence Act. Statements of witnesses have been recorded in both the cases and they are respectively supporting those First Information Reports. Further fact is on record that applicant – Kailas Anarase was the accused in report lodged by accused Sangita and during the investigation of the said First Information Report lodged by Sangita, applicant – Sitaram and his wife are the witnesses and also they had supplied the CCTV footage to the Police. The allegations against both the applicants are that they had inflicted blows and thrown acid against each other. Under such circumstance, taking into consideration the seriousness of the offences, the manner in which the offences stated to have been committed, and also the fact that both the informants in their

respective First Information Report's are silent about the injuries caused to the injured persons, definitely thorough investigation is contemplated. Both the First Information Reports cannot be taken as counter blast to each other or a case of false implication per-se. No case is made out to exercise extra ordinary powers under Section 438 of the Code of Criminal Procedure in favour of both the applicants.

12. Both the Applications stand rejected. The interim protection, granted earlier in both the Applications, comes to an end with the rejection of the Applications.

[SMT. VIBHA KANKANWADI , J.]