

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

ANTICIPATORY BAIL APPLICATION NO.1500 OF 2021

Sunil S/o Bapu Mandale

...APPLICANT

VERSUS

The State of Maharashtra
and others.

...RESPONDENTS

...
Mr.R.D. Biradar Advocate for Applicant.
Mr.V.M. Kagne, A.P.P. for Respondent Nos.1 to 3.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE OF RESERVING ORDER : 12th JANUARY 2022

DATE OF PRONOUNCING ORDER : 1st FEBRUARY 2022

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.262 of 2021 registered with Murud Police Station, Taluka and District-Latur for the offence punishable under Sections 307, 327, 323, 504, 506, 143, 148, 149, 427, 135 of the Indian Penal Code.

2. Heard learned Advocate for the applicant and learned APP for the respondent – State. In order to cut short, it can be said that they have argued in support of their respective contentions.

3. It has been vehemently submitted on behalf of the applicant that perusal of the First Information Report lodged by one Abhijit Annasaheb Mule at about 20.26 hours on 30th September 2021 would show that it is in respect of incident dated 29th September 2021 at about 3.30 p.m. Earlier to that at about 11.30 a.m. parental aunt of the informant along with co-accused Suryabhan Mandale and Kundan Mandale had gone to the field of the informant where the informant, his parents and brothers had gone. It is stated that parental aunt i.e. sister of father of the informant threatened to kill to the family members of the informant and left that place. The informant then states that again at about 3.30 p.m. accused Kundan, applicant, Bhausahab Mandale and five other persons came there. Accused Kundan was holding sickle. Present applicant was holding square angle, one person was holding wire and another person was holding bamboo stick. According to the informant, the present applicant had assaulted his mother Daivshala with angle and

other accused persons had caused injuries to other family members of the informant. As per the First Information Report itself, it is stated that the mother was given only the primary medication and was allowed to go home and therefore, it cannot be stated that offence under Section 307 of the Indian Penal Code is transpiring against the present applicant. It is submitted that physical custody of the applicant is not required. He was granted ad-interim protection. He has abided by the terms of the bail.

4. Per contra, the learned APP has strongly opposed the application and submitted that the applicant was member of the unlawful assembly and he was armed with weapon, therefore, though he may not have caused the offence under Section 307 of the Indian Penal Code, yet, the entire thing has been done in furtherance of common object. Father of the informant has sustained fracture and therefore, definitely the ingredients of Section 307 of the Indian Penal Code are transpiring. His custodial interrogation is necessary to recover the weapon used by him in the commission of crime.

5. The contents of the First Information Report are referred above and therefore, not reproduced now. The role attributed to the present applicant is that he had come along with about six persons and was holding square angle. It is alleged that he had assaulted the mother of the informant with the said angle. The injury certificate of Daivshala Annasaheb Mule would show that she had received two injuries in the nature of contusion, one on the left hand and another on left leg and they are simple in nature. Therefore, certainly, independently his alleged act will not fall under Section 307 of the Indian Penal Code.

6. It can also be seen that one Bapu Chandrabhan Mandale had lodged First Information Report against the informant and his family members in respect of an incident that had allegedly taken place at 11.00 a.m. on 29th September 2021. He is the brother-in-law of Usha Shivaji Mandale, who is stated to be the owner of land Gat No.301 in Shirala Shivar. In the First Information Report lodged by the present informant i.e. Abhijit Annasaheb Mule the name of his parental aunt is stated to be Usha Yashwant Narwade and therefore, at this stage it cannot be said that she is the same lady who has been referred as parental aunt of the informant. Yet, as regards the same date, time and

place is concerned, Bapu Chandrabhan Mandale had lodged the First Information Report vide Crime No.260 of 2021 for the offence punishable under Sections 143, 323, 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3, 2, 5(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

7. Now, taking into consideration the allegations made, the physical custody of the applicant appears to be not required and by granting attendance, he could be made available for further investigation and therefore, on imposing conditions the application deserves to be allowed. This Court has granted interim relief to the applicant by order dated 17th December 2021, which deserves to be confirmed. Only condition is required to be added in respect of the attendance. Accordingly, following order is passed:-

ORDER

- i) Application stands allowed.

ii) The interim protection granted the the applicant by this Court by order dated 17th December 2021 stands confirmed. It is clarified that in the event of arrest of the applicant – Sunil S/o Bapu Mandale in connection with Crime No.262 of 2021 registered with Murud Police Station, Taluka and District-Latur for the offence punishable under Sections 307, 327, 323, 504, 506, 143, 148, 149, 427, 135 of the Indian Penal Code, he be released on bail on PR Bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one or more sureties in the like amount.

iii) Applicant shall attend Murud Police Station on every Monday between 11.00 a.m. to 2.00 p.m. till filing of the charge-sheet and co-operate with the investigation.

iv) Applicant shall not tamper with the evidence of the prosecution in any manner.

[SMT. VIBHA KANKANWADI , J.]