

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

ANTICIPATORY BAIL APPLICATION NO.1591 OF 2021

ANIMESH DEEPAK CHATRE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. V.P. Raje, Advocate for the applicant

Mrs. V.N. Patil-Jadhav, APP for the respondent

...

WITH

ANTICIPATORY BAIL APPLICATION NO.1533 OF 2021

RAHUL SARBJIT YADAV

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. C.C. Deshpande, Advocate for the applicant

Mrs. V.N. Patil-Jadhav, APP for the respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 11th FEBRUARY, 2022

PRONOUNCED ON : 17th MARCH, 2022

ORDER :

in connection with Crime No.127/2021 dated 13.07.2021 registered with Deopur, Dist. Dhule, for the offence punishable under Section 307, 449, 143, 147, 148, 149, 427, 323, 504, 506 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. V.P. Raje for the applicant in Anticipatory Bail Application No.1591 of 2021, learned Advocate Mr. C.C. Deshpande for the applicant in Anticipatory Bail Application No.1533 of 2021 and learned APP Mrs. V.N. Patil-Jadhav for the respondent/State in both matters.

3 It has been vehemently submitted on behalf of both the applicants that the First Information Report is the outcome of the rivalry between two groups. Now, the investigation is over and charge sheet is also filed, therefore, physical custody of the applicants is not required for the purpose of investigation. Some of the co-accused have been released on anticipatory bail, either by the Additional Sessions Judge or by this Court and the role attributed to the applicants is that they had assaulted by kicks and fists, therefore, there is no question of discovery or recovery at the hands of the applicants. Offence under Section 307, 449, 143, 147, 148, 149, 427, 323, 504, 506 are not attracted against the applicants. Some of the accused have been released on regular bail also and the recovery of the weapon has

been done through them. When the applicants have been falsely implicated, they deserve protection in respect of their liberty.

4 Per contra, the learned APP strongly opposed the applications and submitted that the present applicants are absconding and, therefore, they cannot claim any protection. In all 10 named persons as well as 10-15 unknown persons had gathered in front of the house of the informant and they pelted stones. They were armed with weapons like sword, iron rod, scythe, stones, bricks and wooden sticks. The informant and his family members have been severely beaten. They have received grievous injuries, which would have caused death, if not treated within time.

5 At the outset, it is to be noted that the First Information Report has been lodged by one Raju Bharat Barve on 13.07.2021 in respect of an incident that had taken place at about 9.45 p.m. on 12.07.2021. It is stated that the informant and his friend were watching some children dancing in the pre-marriage ceremony in the house of one Mahendra. Accused Sahil Chitte's dash was received by the informant. Informant asked him, as to whether he cannot walk properly. Thereafter, there was hot exchanges of words and then Sahil left. He returned along with his father, brothers and other persons, of whom 10 are named and 10-15 were unknown to the informant. Accused

Rameshwar was holding sword, Govind was holding iron rod, Rajesh was holding scythe and it is stated that rest of the persons were holding bricks, stones and wooden sticks. Informant, his brothers and others were assaulted severely. As regards the further part is concerned, it is stated that the present applicants had entered the house of the informant and assaulted by kicks and fist blows.

6 The charge sheet has been filed on 06.10.2021. As regards the present applicants are concerned, they have been shown as absconding. Statements of witnesses have been recorded. Some of them are stating the role played by the present applicants and others were not present at the spot, but appears to be the persons to whom the informant had narrated the incident, immediately after the same. If we consider the medico legal certificate of injured Bablu Bharat Barve, it states that he has suffered grievous injury to the head. His statement has also been recorded. He has specifically stated the name of the present applicants. Injury certificate of one Ajay Bharat Barve would show that he had suffered grievous injury to left hand and it turned out to be the fracture. His statement has also been recorded, which shows that he has named the applicants. Weapons like scythe, sword, iron rods, wooden sticks have been seized from accused Sahil. Thus, there appears to be prima facie evidence against the present applicants.

Further, what is more important is that the applicants have been shown as absconding at this stage. We will have to infer that proper procedure might have been adopted before filing the charge sheet, so also, there would have been search of the present applicants and after they were not found, the charge sheet has been filed, as certain accused persons were arrested and certain were released on anticipatory bail. Taking into consideration all these aspects the extraordinary powers need not be exercised in favour of the applicants. Though this Court had granted interim interim protection, it was before considering the evidence in the charge sheet. In view of this, applications stand rejected. The interim protection granted earlier stands vacated.

(Smt. Vibha Kankanwadi, J.)

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