

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

ANTICIPATORY BAIL APPLICATION NO.1645 OF 2022

1. Rajendra Sakharam Pathare,
Age:- 45 years, Occu. Agri & Up Nagaradhax,
 2. Shubham Arun Wagh,
@ Yash Arun Wagh,
Age:- 21 years, Occu. Education,
 3. Piyush Ravindra Kumbhakarna,
Age:- 24 years, Occu. Labour,
 4. Sarthak Ravindra Kumbhakarna,
Age:- 27 years, Occu. Labour,
All r/o. Rahata, Tq. Rahata,
Dist. Ahmednagar.
- ... Applicants

Versus

1. The State of Maharashtra,
Through Superintendent of Police,
Ahmednagar.
 2. The Police Inspector,
Rahata Police Station,
Tq. Rahata, Dist. Ahmednagar
- ... Respondents

...
Mr. Avinash N. Barhate Patil, Advocate for Applicants
Mr. V. S. Badakh, APP for Respondents – State
Mr. J. M. Murkute, Advocate for Informant
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 13th DECEMBER, 2022

ORDER :

1. Applicants apprehending their arrest in Crime No.419/2022, registered with Rahata Police Station, District Ahmednagar, for offences punishable under Sections 307, 327, 341,

452, 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code, Sections 25(3) and 25(4) of the Arms Act and Sections 135 and 37(1)(3) of the Maharashtra Police Act, seek anticipatory bail.

2. FIR is lodged by Anand Karsan Shah alleging that on account of dispute in respect of reducing volume during Ganesh festival, applicants came to the house of informant and banged his door. When informant opened the door, applicants along with six other accused persons named in the FIR and three to four unknown accused persons assaulted informant. Applicant No.1 has threatened informant by showing pistol and gave blow of pistol on his head. Applicant No.2 aimed sword blow on the neck of informant and to avoid the same informant used his left hand and suffered injury on forearm. Applicant Nos. 3 and 4 and others assaulted informant with wooden log and removed his golden chain and wallet.

3. Head learned advocate for applicants, learned advocate for informant and learned Additional Public Prosecutor for respondents – State. Perused the investigation papers.

4. Learned advocate for applicants submits that applicant No.1 is Vice President of Municipal Council and therefore, he is falsely implicated in the crime. He further submits that the only allegation against applicant No.1 is that he assaulted with pistol on the head of informant. Due to political rivalry applicants are

unnecessarily implicated in the present crime. Applicant No.2 is college student, whose actual name is Yash Arun Wagh and he is not Shubham Arun Wagh. Co-accused Mayur was arrested in the crime and wooden log and other weapons are recovered from him. Therefore, custody of applicants is not necessary. Applicant No.1 is taking treatment for heart disease and therefore, it is not possible for him to use pistol. He, therefore, submits that applicants deserve anticipatory bail.

5. Learned Additional Public Prosecutor strongly opposed the bail application contending that applicants have assaulted informant and there are multiple injuries on the person of informant. When informant was being taken to the hospital by his friend Vijay Mogale, applicants and other accused persons assaulted him with wooden log and fist and kick blows and gave threats of life. There are criminal antecedents of applicants and therefore, applicants do not deserve discretionary relief.

6. As per injury certificate of the informant, he has received eleven injuries. He has received CLW over left arm and abrasion on temporal region, which are caused by sharp object. Other injuries are caused by hard and blunt object.

Vijay Mogale is also injured, who has suffered five injuries in the form of contusions and abrasions, which are caused by hard and blunt object. Though the injuries suffered by informant

and Vijay are stated to be simple, fact remains that injury certificates support the allegations of assault. Specific role is attributed to the applicants in FIR. Pistol and sword allegedly used in crime are yet to be recovered. Custody of applicants is, therefore, necessary for effective investigation.

7. Apart from above, there are nine criminal offences registered against applicant No.1 under Sections 141, 143, 147, 148, 149, 307, 323, 324, 353, 188, 394 and 392 of the Indian Penal Code at Rahata and Shirdi Police Stations. In the past, externment proceedings were also initiated against applicant No.1. Against applicant No.2, complaint bearing Crime No.297/2020, registered with Rahata Police Station, for offence punishable under Section 188 of the Indian Penal Code is pending and against applicant No.4, Crime No.043/2018 is registered at Rahata Police Station for offence punishable under Sections 452, 323, 504, 506 read with 34 of the Indian Penal Code.

8. In the light of aforesaid facts, applicants do not deserve discretionary relief of anticipatory bail. Application is, therefore, rejected.

(NITIN B. SURYAWANSHI, J.)