

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

**ANTICIPATORY BAIL APPLICATION NO.1567 OF 2021
WITH
CRIMINAL APPLICATION NO.3318 OF 2021**

- 1) Limbarao S/o Kashiram Suryawanshi,
- 2) Devanand S/o Manohar Suryawanshi,
- 3) Manohar S/o Kashiram Suryawanshi,
- 4) Rajkumar S/o Limbarao Suryawanshi

...APPLICANTS

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.Dhananjay M. Shinde Advocate for Applicants in
Anticipatory Bail Application No.1567 of 2021.
Mr.N.T. Bhagat, A.P.P. for Respondent-State.
Mr.Balaji S. Chondhekar Advocate for Applicant in Criminal
Application No.3318 of 2021 for assist to APP.

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CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 18th JANUARY, 2022

ORDER :

1. Criminal Application No.3318 of 2021 moved for assist to
APP stands allowed and disposed of.

2. Present applicants are apprehending their arrest in connection with Crime No.120 of 2021 registered with Narsi (Namdeo) Police Station, District-Hingoli for the offence punishable under Sections 307, 506 read with Section 34 of the Indian Penal Code.

3. It has been vehemently submitted on behalf of the applicants that the incident had taken place on 20th November 2021 at about 1.00 p.m., however, the First Information Report has been lodged on 22nd November 2021. It is just in order to give counter blast to the First Information Report lodged by applicant No.4 vide Crime No.121 of 2021 registered with the same police station for the offence punishable under Section 326, 323, 504, 506 read with Section 34 of the Indian Penal Code. Applicant No.4 had received severe injuries and was hospitalized. He had also filed the First Information Report on 22nd November 2021 for the incident that had taken place on 20th November 2021 but since he was hospitalized the delay has been caused. Now taking into consideration the allegations made in the First Information Report the physical custody of the applicants is not required. The applicants are ready to abide by the terms of the bail.

4. Per contra, learned APP, well assisted by learned Advocate Mr. Chondhekar submitted that the informant was hospitalized as he has sustained injuries and the discharge card issued by the District Hospital, Hingoli would show that he was hospitalized for about eight days i.e. from 20th November 2021 to 28th November 2021. There was an attempt to kill the informant by administering poisonous substance and the said fact was disclosed by the informant immediately when he was taken to hospital at about 2.45 p.m. on 20th November 2021. There are eye witnesses to the incident i.e. father of the informant and Vinod Shrirame and Pradeep Pole. The custodial interrogation of the applicants is necessary to recover the poison bottle.

5. At the outset it is to be noted that the First Information Report lodged by the present informant in Crime No.120 of 2021 is earlier in time though it appears to be belated. It has been registered at 18.59 hours on 22nd November 2021 whereas the First Information Report lodged by applicant No.4 has been registered at 22.41 hours on the same day. In both the First Information Reports it is stated that incident had taken place around 1.00 p.m. on 20th November 2021 and the place also appears to be the same. Here in this case, the informant has

stated about the slight earlier incident. He says that when he went to the field, he found applicant No.4 cutting the branches of the tree by axe. Informant tried to stop him, however with the hot altercations applicant No.1 had pushed the informant and then assaulted the informant by stick on his left hand. He fell down on the ground and then he says that applicant No.2 has caught hold his legs whereas applicant No.3 has caught hold his hands and applicant No.1 had tried to pour poisonous substance from a bottle which was in the pocket of his pant into the mouth of the informant. In the meantime the father of the informant and other two persons came running and then informant had pushed applicant No.4, as a result of which the poisonous substance spilled on his mouth and shirt. The accused persons then fled away from the spot by giving threat.

6. The police papers made available shows that the intimation letter was given by the medical officer on duty at civil hospital, Hingoli wherein it has been stated that the informant reported to the hospital at 2.45 p.m. and the history is given as assault and administration of poisonous substance. Then there is discharge card and as regards the diagnosis is concerned, there is some interpolation. Words 'assault' and 'poisoning' are clear but the letter in between is the over-writing. In the caption - operation

notes, it is stated ortho operation. However, there is also the medico legal cum injury certificate issued on 20th November 2021 by medical officer Dr. N.R. Agrawal attached to civil hospital, Hingoli and it states that there was contusion 1 cm. X 2 cm. on right shoulder. The nature of the injury stated to be simple with hard and blunt object. Another noting states about forceful injection of Organo Phosphorous poisoning but then nature of injury is stated to be simple. But the other noting on the certificate is important. It says that there was no smell of poison in gastric lavage and second noting is, no signs and symptoms of poisoning. However, the panchnama of seizure of clothes of informant and the letter of sending the said seized muddemal to chemical analysis states that on three clothes those were seized of the informant, there was smell of poisonous substance. There is also communication that the gastric lavage (sample of vomiting of the informant) if preserved, should be given in sealed packet for chemical analysis. But there is no communication attached to the police papers as to whether that sample was made available by the medical officer or not, but then in the letter given to Chemical Analyzer no such sample has been sent for analysis.

7. Therefore, taking into consideration this kind of evidence which has been collected, especially the medical evidence, applicants deserve to be released on anticipatory bail. Hence the following order:-

ORDER

- i) Application stands allowed.
- ii) In the event of arrest of applicant No.1 – Limbarao S/o Kashiram Suryawanshi, applicant No.2 - Devanand S/o Manohar Suryawanshi, applicant No.3 - Manohar S/o Kashiram Suryawanshi, applicant No.4 - Rajkumar S/o Limbarao Suryawanshi, in connection with Crime No. 120 of 2021 registered on 22nd November 2021 with Narsi (Namdeo) Police Station, District-Hingoli for the offence punishable under Sections 307, 506 read with Section 34 of the Indian Penal Code, they be released on bail on P.R. Bond of Rs.50,000/- (Rupees Fifty Thousand) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand) each.
- iii) The applicants shall remain present before the Investigating Officer on every Monday and Thursday between

10.00 a.m. to 2.00 p.m. till filing of the charge-sheet and co-operate with the investigation.

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

v) The applicants shall not indulge in any criminal activity.

vi) If applicants indulge in any criminal activity in future, the prosecution is at liberty to file application under Section 439(2) of the Code of Criminal Procedure before the trial Court.

vii) Criminal Application No.3318 of 2021 stands disposed of.

[SMT. VIBHA KANKANWADI , J.]