

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1736 OF 2021

1. Rajratna Mohanaji Nikhate

2. Rahul Tarachand Nikhate

Applicants

Versus

The State of Maharashtra

Respondent

Mr. S.B. Deshpande, Advocate for the applicant.

Mr. S.B. Narwade, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 19th JANUARY, 2022.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicants on bail in connection with Crime No. 0106/2021 registered with Mudkhed Police Station, Dist. Nanded, for the offences punishable under Sections 307, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. Facts in brief are that applicant No. 1 was suspecting that informant had an evil eye on his wife. On that count, on 10th June, 2021, informant was returning home along with witness Ganesh Totewad. At that time, near ITI, Mudkhed, applicants No. 1 and 2 along with two unknown persons came there and assaulted

the informant by means of an iron rod. He sustained injuries on his head, hand and legs. On these allegations, First Information Report came to be lodged.

3. Shri Deshpande, learned counsel for the applicant submits that the informant has been discharged from the hospital. He further submits that one Ganesh Totewad was accompanying the informant. In his statement under Section 164 of the Code of Criminal Procedure, he did not say anything about the incident. He has simply said that he does not know anything about the incident.

4. Learned APP Shri Narwade submits that there are two eye witnesses who have deposed about the incident. He further submits that informant had sustained grievous injuries on his head, hands and legs. He, therefore, opposes the application.

5. Admittedly, informant has been discharged from the hospital. Ganesh Totewad is an eye witness as he was a pillion rider on the motorcycle on which the informant was travelling. In his statement under Section 164 of the Code of Criminal Procedure, he did not say anything about the incident. He has only stated that he

does not know anything about the incident. It is true that there are two eye witnesses who have stated about the incident. However, Ganesh Totewad is the best person to depose about the incident as he was accompanying the informant. Charge-sheet is filed. Applicants do not have any criminal antecedents. They are not likely to flee from justice. No exceptional circumstance is brought on record to deny bail to the applicant. In view of this, following order is passed :-

ORDER

- i) Application is allowed.
- ii) Each of the Applicant be released on PR bond of Rs. 40,000/- (Rs. Forty Thousand) with one solvent surety each in the like amount in connection with Crime No. 0106/2021 registered with Mudkhed Police Station, Dist. Nanded, for the offences punishable under Sections 307, 323, 504, 506 read with Section 34 of the Indian Penal Code, on condition that they shall not enter the village till the conclusion of the trial.
- iii) Application stands disposed of.

(M. G. SEWLIKAR)
JUDGE

dyb