

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. ANTICIPATORY BAIL APPLICATION NO. 453 OF 2022

Harichandra Tulshiram Bharmal & Anr. ..Applicants

Vs.

The State of Maharashtra ..Respondent

Mr. Prashant C. Mohite i/b. Mr. Yogesh D. Lakhariya, for the Applicant.

Mr. S. R. Agarkar, APP for the Respondent / State.

MAMTA
AMAR
KALE

Digitally
signed by
MAMTA
AMAR KALE
Date:
2022.02.24
16:55:50
+0530

**CORAM : C.V. BHADANG, J.
DATE : 23 FEBRUARY 2022**

P.C.

. The Applicants, who are husband and wife, apprehending arrest, in connection with investigation of Crime No.5/2022 of Police Station Sinnar, District Nashik (Rural), under Section 326, 323, 504 and 506 r/w. 34 of IPC, are seeking anticipatory bail.

2. The aforesaid crime is registered on the basis of the complaint lodged by Vasant Chandrabhan Khetade on 5 January 2022. It appears that there was a religious function in the village on 25 December 2021 where the injured Deepak who is the son of the first

informant was present. At about 7.30 p.m., there was a minor dispute in the said function in which the Applicant is alleged to have slapped the injured. The injured Deepak Khetade then went to the house of the Applicant and asked him as to why he had slapped him. It is at this stage that the Applicant is alleged to have taken out a wooden stick from his house and assaulted Deepak on the legs, hands and head. The injured Deepak was treated at home. However, his condition deteriorated on 28 December 2021 and then he was initially taken to Sopan Hospital at Nashik and thereafter, he was taken to Dhadiwal Hospital, Nashik where he was operated upon. It appears from the record and the observations made by the learned Sessions Judge that the injured is still not in a position to speak on account of injury caused to the head.

3. I have heard the learned counsel for the parties.

4. It is submitted by the learned counsel for the Applicants that there is a counter FIR registered by the niece of the Applicant alleging an offence under Section 354 of IPC against the injured Deepak. The learned Sessions Judge has found that the said complaint is belated and indeed the possibility of it being lodged as a counterblast cannot be ruled out. At this stage, there is a FIR which attributes a specific role of assault by stick on the injured including

on the head on account of which the injured was required to be operated upon and presently has lost ability to speak.

5. Considering the over all circumstances, I do not find the case of pre-arrest bail is made out in so far as Applicant No.1 Harichandra Tulshiram Bharmal is concerned. However, no specific role is attributed to his wife of any physical assault. Hence, protection can be extended to Applicant No.2.

6. At this stage, the learned counsel for the Applicant submits that the Applicant No.1 shall surrender before the Investigating Officer within two weeks from today.

7. In the result, the following order is passed.

ORDER

(i) The Application for pre-arrest bail of Applicant No.1 Harichandra Tulshiram Bharmal is hereby rejected.

(ii) In the event of her arrest, in connection with investigation of Crime No.5/2022 of Police Station Sinnar, District Nashik (Rural), the Applicant No.2 Satyabhama Harichandra Bharmal be released on bail on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.

(iii) The Applicant No.2 shall report to the Investigating Officer as and when required and shall cooperate with the Investigating Agency.

(iv) Two weeks time is granted to Applicant No.1 to surrender.

(v) The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.