

Anil Popat Babar and Another ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr. Priyal Sarda, for the Applicants
Ms. G.P. Mulekar, APP for the State.

VISHAL
SUBHASH
PAREKAR

Digitally signed by
VISHAL SUBHASH
PAREKAR
Date: 2022.05.09
15:57:03 +0530

CORAM : N. J. JAMADAR, J.
DATE : MAY 09, 2022
(VACATION COURT)

1. The applicants who are arraigned in C.R. No. 1075 of 2021 registered with Mohol police station, Solapur for the offences punishable under sections 307, 324, 323, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code, 1860, along with co-accused, have preferred this application for enlarging them on bail.

2. The indictment against the applicants is that the field of the applicant No. 1 Anil is adjacent to the field of first informant Prakash. There was a dispute between the applicant No. 1 and the first informant over the right of way over the field of the first informant. On 9th December, 2021 at about 3.00 pm the applicant No. 1 started to pass through the field of the first informant by his bullock-cart. The first informant resisted the use of his field as a way. Thereupon the applicant No. 1 allegedly called his associates/

co-accused. They came thereat armed with dangerous weapons like iron rod, sticks and sickle etc. The applicant No. 1 allegedly assaulted the first informant on his head by means of a spade (khorya). The co-accused Nitin, Satish, Rajaram, Dnyaneshwar, Vilas and Sunil also assaulted the first informant, his sister in law Premila and nephew Ashok. The applicant No. 2 Satish allegedly assaulted Premila by means of iron rod.

3. The learned counsel for the applicants, in the backdrop of the aforesaid allegations, submitted that the material on record does not indicate that the applicants intended to commit the murder of the first informant and Premila. The incident had occurred at the spur of moment. The injury certificates indicate that none of the injured suffered any grievous injury, nor any of the injured was admitted in the hospital even for a day. In the circumstances, when rest of the accused, apart from the applicants, have been released on bail, there is no reason not to release the applicants on bail, urged learned counsel for the applicant.

4. In opposition to this, the learned APP would urge that the fact that the applicants attempted to commit murder of the first informant and Premila, respectively, becomes evident from the

nature of the weapon with which the applicants assaulted the first informant and Premila. The role attributed to the applicants is grave and, therefore, the applicants are not entitled for release on bail.

5. From the perusal of the report under section 173 of the Code of Criminal Procedure and the material on record, it becomes evident that the offence has its genesis in the alleged dispute over the right of way. In the first information report and statement of witnesses, though it is alleged that the applicants had used dangerous weapons and gave blows on the vital parts of the body of the first informant and injured Premila, yet the injury certificates of the first informant, Premila, Ashok and Sanjay indicate that none of the witnesses had suffered any grievous injury. No fracture was noticed on the head of the first informant. Premila had also sustained a contusion and CLW.

6. The investigation is complete for all intent and purpose. Charge sheet has been lodged. The applicants appear to have roots in society. The possibility of fleeing away from justice is remote. In the circumstances, the applicants deserve to be enlarged on bail. Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicants Anil Popat Babar and Satish Mahadev Babar be released on bail on furnishing a P.R. Bond in the sum of Rs. 25,000/- each and one or two sureties in the like amount to the satisfaction of the learned Additional Sessions Judge, Solapur.
- 3] The applicants shall not tamper with the prosecution witnesses and/or gave threat or inducement to any of the prosecution witnesses.
- 4] The applicants shall regularly attend the proceeding before the learned Additional Sessions Judge, Solapur.

(N. J. JAMADAR, J.)