

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2385 OF 2022**

Kundlik Ramchandra Pawar & Anr. .. Applicants

Versus

The State of Maharashtra .. Respondent

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Mr.Vivek B. Rane for the Applicants.

Ms.Anamika Malhotra, A.P.P. for the State/Respondent.

PSI Raosaheb Wagh, attached to Kalyan Police Station, Kalyan, Thane, present.

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CORAM: BHARATI DANGRE, J.

DATED : 29th AUGUST, 2022

P.C:-

1. The two applicants are apprehending their arrest in C.R. No.313 of 2020 registered with Kalyan Taluka Police Station, which invoke Sections 307, 323, 326, 143, 144, 147, 148, 149, 504 read with Section 34 of I.P.C.

The subject C.R. arraigns the present applicants as accused Nos.1 and 2 alongwith 8 other accused persons at the instance of one Vishwanath Jadhav. He reported about the incident, which took place on 02/07/2020 and he has stated that he is residing on the given address alongwith his family

and he owns an agricultural land. Some portion of the said land was given to applicant No.1-Kundalik for construction of a house. On the remaining area, it was decided to construct a compound and the material was brought for the said purpose and it was placed before the house of Kundalik. This annoyed him and he went in abusive tone. Therefore, he called his sons. It is alleged that applicant No.2 came with a sword, whereas applicant No.1 was armed with an axe and he assaulted the complainant on frontal region. As per the version of the complainant, Ankush and Ramesh assaulted Kunal by wooden rods and iron sticks, causing injury to his eye and index finger. The other injured, being Pankaj, was also assaulted alongwith the brother of the complainant.

2. Learned A.P.P. has placed on record the injury certificate of the complainant issued by the private hospital, which refer to a CLW over right orbital lateral aspect and one CLW lateral to right eye. Both the injuries are described as simple injuries. As far as Pankaj is concerned, he has sustained laceration to chest. Bhaskar sustained laceration over his right leg and Kunal is also reported to have sustained laceration on right orbital region and near on left ring finger. All the injuries are described as simple injuries.

3. In contrast, there is a counter FIR registered with the very same police station vide C.R.No.314 of 2020 by applicant No.2-Ankush, where the complainant Vishwanath, Bhaskar, Kunal and Pankaj are arraigned as accused. The cross F.I.R. gives a version that it is the complainant in F.I.R. No.313 of 2020, who was aggressive and they assaulted Ankush and his family. The medical certificate of Ankush placed on record alongwith the application reveals that he had sustained a head injury with fracture of left parietal EOH/SOH. The certificate also makes a mention of multiple skull wounds (indisplaced) alongwith CSF Rhimorrhoea. The injury certificate of applicant No.1 placed on record also refer to a fracture of left clavicle and blunt trauma to his back.

4. The cross versions in the two complaints are ultimately a matter of trial and will have to be determined at the said stage. Co-accused- Shailesh Ankush Pawar and others have been released on bail in the event of their arrest, recording that there is a counter case registered.

The investigation is complete and the charge-sheet has been filed against the other accused persons. The present applicants are shown as absconding and it is not understood as to why they are shown as absconding, since they were

admitted in the hospital and underwent the treatment. Since the custodial interrogation of the applicants would not take the case of the prosecution any further, as the role of the applicants has clearly surfaced on record through the charge-sheet filed against the other co-accused, they deserve protection from arrest, subject to the stipulation that they shall render their co-operation to the investigation agency. Hence, the following order.

: ORDER :

- (a) Application is allowed.
- (b) In the event of arrest in connection with C.R.No.313 of 2020 registered with Kalyan Taluka Police Station, applicant No.1-Kundlik Ramchandra Pawar and applicant No.2-Ankush Ramchandra Pawar shall be released on bail on furnishing P.R. Bond to the extent of Rs.25,000/- each, with one or two sureties in the like amount.
- (c) The applicants shall report to the concerned police station from 15th to 17th September, 2022 between 3.00 p.m. to 5.00 p.m. and, thereafter, as and when called for.

(d) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.

(SMT. BHARATI DANGRE, J.)