

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 2499 OF 2021

Yogesh Krushant Takwale & anr.

...Applicants

Versus

State of Maharashtra

...Respondent

Mr. Veerdhaval Kakade, i/b Ms. Mrunal Jadhav, for the
Applicants.

Mr. P. H. Gaikwad, APP for the State.

CORAM: N. J. JAMADAR, J.

DATED : 17th JUNE, 2022

PC:-

1. Heard the learned Counsel for the applicants and the learned APP for the State. Perused the investigation papers.
2. The applicants are seeking pre-arrest bail in connection with CR No.318 of 2021, registered with Saswad Police Station, Pune, for the offences punishable under Sections 307, 324, 323, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").
3. Kiran Takwale (the first informant) lodged a report against the applicant and co-accused Saish Takwale with the allegation that on 24th August, 2021, the applicants and co-accused accosted him near Hotel Shrinath Jogeshwari, Yadavwadi. The co-accused Saish was armed with a sword. Saish assaulted the

informant by means of sword as the first informant had allegedly worked against him in village panchayat election. Three blows by means of sword were given by Saish. The applicants allegedly exhorted the said assailant not to spare the first informant. By an order dated 29th October, 2021 this Court granted interim protection to the applicants.

4. The learned Counsel for the applicants submitted that the role of actual assault is attributed to the co-accused Saish. At best, the applicants had assaulted the first informant by means of fist blows. The investigation is at an advanced stage. At this juncture, nothing is to be recovered from the applicants. Hence, the applicants be released on bail in the event of arrest.

5. The learned APP invited the attention of the Court to the injury certificate of the first informant and the statements of the first informant and witnesses recorded during the course of the investigation as well as under Section 164 of the Code of Criminal Procedure, 1973 ("the Code"). It was submitted that a specific role has been attributed to the applicants as well.

6. I have carefully perused the material on record.

7. The role of assault by means of the sword is attributed to co-accused Saish. The applicants were admittedly unarmed. At best, the role of having exhorted the assailant to assault the

first informant can be attributed to the applicants. It does not appear that any weapon of assault or any other incriminating article is to be recovered from the applicants. At this length of time, as the investigation seems to have reached an advanced stage, the custodial interrogation of the applicants does not seem warranted. The applicants appear to have roots in society. The possibility of fleeing away from justice seems to be remote. Hence, I am persuaded to exercise the discretion in favour of the applicants.

8. Thus, the following order:

: O R D E R :

- (i) The application stands allowed.
- (ii) In the event of arrest of the applicants in CR No.318 of 2021, registered with Saswad Police Station, Pune, they be released on bail on executing a PR Bond in the sum of Rs.25,000/- each, and one or two sureties in the like amount.
- (iii) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

(iv) The applicants shall cooperate with the investigation and report to the Investigating Officer as and when directed.

(v) The applicants shall regularly attend the proceedings before the jurisdictional Court.

[N. J. JAMADAR, J.]