

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2523 OF 2021

Arun Narayan Kharat and Anr. ..Applicants
V/s.
The State of Maharashtra ..Respondent

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WITH
INTERIM APPLICATION NO. 2812 OF 2021

Vimal Bapurao Kharat .. Intervenor

In the matter between:

Arun Narayan Kharat and Anr. ..Applicants
V/s.
The State of Maharashtra ..Respondent

Dr. Uday Warunjikar i/b Mr. Onkar Wable for the Applicants.

Mr. R.M.Pethe, APP for the Respondent/State.

Ms. Vilasini Balsubramaniam i/b Jaydeep Mane for the
intervenor.

API Shashikant Shelke, Malshiraj Police Station, Solapur.

CORAM : C.V. BHADANG, J.

DATE : 28 FEBRUARY 2022

P.C.

1. The Applicants, apprehending their arrest, in connection with the investigation of Crime No. 585 of 2021 registered with Malshiraj Police Station, Dist. Solapur under Section 326, 324,

504 and 506 read with Section 34 of IPC, are seeking anticipatory bail.

2. The aforesaid crime is registered on the basis of the complaint lodged by Vimal Kharat on 07.10.2021. It appears that there is a property dispute between the parties, who are closely related, since last 10 to 15 years. On 07.10.2021, the Applicants are alleged to have gone to the house of the first informant and the first informant and her husband Bapurao Kharat were assaulted by means of an iron rod, a wooden stick etc., as a result of which, both of them have sustained fracture.

3. The learned counsel for the Applicants submits that there is a long standing enmity between the parties on account of partition of the properties from the year 1999. He submitted that therefore, the possibility of false implication cannot be ruled out. It is submitted that there is also discrepancy in the manner the incident had happened as narrated in the FIR, inasmuch as the informant initially states that the incident happened in house and in later part, it was claimed that it was outside the house.

4. The learned counsel for the Applicants submitted that in the year 1999, the informant had tried to create false evidence of injury in order to falsely implicate the Applicants for which one injury certificate dated 04.06.1999 of Smt. Kharat is produced on

record. It is submitted that even the present injuries can be self inflicted in order to falsely implicate the Applicants.

5. The learned APP assisted by the learned counsel for the complainant has submitted that both the complainants have been brutally assaulted and both of them have sustained grievous injuries in the nature of fracture. The weapons are yet to be recovered and the custodial interrogation of the Applicants is necessary.

6. I have considered the submissions made. It is well settled that enmity is weapon which can be used either way. Admittedly, the parties are related and have long standing property dispute which can in a given case be a motive for the assault. There are specific allegations attributing a role to the Applicants and which are prima facie supported by the medical reports of the complainant and her husband are shown to have suffered fracture. Prima facie it cannot be accepted that the injuries can be self inflicted only with a view to falsely implicate the Applicants. In my considered view, the custodial interrogation of the Applicants in the case of the present nature is warranted. No case for grant of pre-arrest bail is made out.

7. The Criminal application is hereby rejected.

8. At the request of the learned counsel for the Applicants, the interim protection is extended for a period of two weeks.
9. The interim application for intervention is disposed of.

(C.V. BHADANG, J.)