

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2879 OF 2022

Ashok Vitthal Mandhare ...Applicant
Versus
State Of Maharashtra ...Respondent

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Mr. Vishal Kolekar, Advocate for the Applicant.

Mr. N. B. Patil, APP for the Respondent – State.

Mr. A. V. Kamble, Head Constable Saswad Police Station present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 17th OCTOBER, 2022.

PER COURT:

1. This is an application for Anticipatory Bail in C.R. No.329 of 2022 registered with Saswad Police Station, Pune for the offences punishable under Sections 326, 324, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2. The First Information Report was registered on 7th August, 2022 at about 7.47 p.m. alleging that, the complainant Haridas Kisan Mandhre and Kerba Kiranrao Mandhre were on their land bearing Gut No.75 and they were constructing the road at that time the applicants and co-accused came there, they were abused, they picked up the stones. The applicant assaulted Kerba with stick on his head he also assaulted Haridas with stick on his hand as well as

shoulder.

3. The First Information Report was registered at the instance of the applicant with the same Police Station vide C.R. No.328 of 2022 for offences punishable under Section 324, 504 read with 34 of the Indian Penal Code against Kerba Mandhre, Digambar Mandhre and Prabhavati Mandhre alleging that, the applicant was arrested by the opponents with stick.

4. Learned Advocate for the applicant submits that, the assault is by stick. There is dispute on account of property. The FIR was lodged by the applicant first in point of time. If the injury suffered by complainant was serious, he could have approached the police immediately. The FIR was registered on the next day. Initially the FIR was under Section 324 which was then altered to Section 326 of IPC. Custodial interrogation is not necessary. The applicant is willing to stay out of the jurisdiction of Saswad Police Station till further order.

5. Learned APP submits that, specific overt act has been attributed to the applicant. Kerba Mandhra had suffered grievous injury on his head and shoulder. Haridas Mandhre has also suffered contusion and abrasion. The injury certificate corroborate the version of complainant. Considering the nature of injury suffered

by Kerba, the applicant is not entitled to for relief under Section 438 of Cr.P.C.

6. It appears that, the applicants and the opponents are cousins. There is dispute amongst them over the property. The applicants lodged the FIR on the day of incident. The complainant had lodged FIR on 7th August, 2022 at 7.47 p.m. The incident had occurred on 6th August, 2022 11.30 a.m.

7. Considering the nature of dispute and overt act and fact that, both the sides have filed complaints against each other, on stringent condition relief can be granted to applicant.

ORDER

(i) Criminal Anticipatory Bail Application No. 2879 of 2022 is allowed.

(ii) In the event of arrest of the applicant in connection with C.R. No.329 of 2022 registered with Saswad Police Station, Pune, the applicant be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(iii) The applicant shall stay away from the jurisdiction of Saswad Police Station for a period of one year.

(iv) The applicant shall not approach complainant or any other witnesses. In the event of breach of condition the complainant/prosecution will be at liberty to prefer an application to cancellation of bail.

(v) Criminal Anticipatory Bail Application disposed off.

(PRAKASH D. NAIK, J.)