

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2937 OF 2022
WITH
INTERIM APPLICATION NO. 3549 OF 2022

Sandip Nagnath Mhatre ... Applicant
Versus
State of Maharashtra ... Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 2945 OF 2022
WITH
INTERIM APPLICATION NO. 3562 OF 2022

Pravin Sakharam Mhatre ... Applicant
Versus
State of Maharashtra ... Respondent

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Mr. Anilkumar Patil instructed by Mr. Rohan Barge for the Applicants in both the Applications.
Ms. M.M. Deshmukh, APP for the State in ABA-2945-2022.
Mr. A.R. Kapadnis, APP for the State in ABA-2937-2022.
Mr. Nitin Sejjal for the Applicant in IA-3549-2022 and IA-3562-2022.
API Pravin Phadtare, Panvel Crime Branch, Panvel, Navi Mumbai, present.

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CORAM : N.R. BORKAR, J.

DATED : 20 OCTOBER 2022

P.C. :-

. These applications are filed under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

This order is modified as per speaking to Minutes of the Order dated 14th November 2022.

2. The applicants are apprehending their arrest in Crime No. 70 of 2022 registered at Kamothe Police Station, Navi Mumbai for the offence punishable under Sections 307, 324, 143, 147, 148, 149, 323, 427, 504 of Indian Penal Code and Sections 37(1)(3) and 135 of the Maharashtra Police Act.

3. It is the case of the prosecution that on 29 March 2022, the present applicants alongwith other co-accused formed an unlawful assembly and assaulted Prashant Gajanan Mhatre by iron rods and sticks on account of previous dispute.

4. I have heard the learned Counsel for the applicants, the learned APP for the State and the learned Counsel for the intervenor/complainant.

5. The learned Counsel for the applicants submits that though initially the offence punishable under Section 307 of the IPC was invoked, however, considering the nature of injuries, the investigating officer has sought permission of the jurisdictional Magistrate to convert into Section 326 of the IPC. It is submitted that according to injured, present applicants assaulted him on his head, by stick and iron rod. However, there is only one injury on occipital region. It is submitted that there are no criminal antecedents. It is thus prayed that the applicants may be released on anticipatory bail.

6. The learned APP for the State and the learned Counsel for intervenor/complainant submits that the applicants are involved in the serious offence of attempt to murder. It is submitted that the injury certificate issued by the MGM Hospital shows nature of injury caused to Prashant Mhatre as grievous. It is further submitted that the iron rod and stick are to be recovered and therefore, custodial interrogation of the present applicants is necessary.

7. I have perused the First Information Report. According to the complainant both the applicants have assaulted by iron rod and stick on his head. However, there is only one injury on occipital region. Therefore, prima facie the version of the complainant appears to be not consistent with the medical evidence. Even otherwise according to the injury certificate issued by D.Y. Patil Hospital, the nature of injuries are simple. There are no other criminal antecedents. Considering these facts and circumstances, I am inclined to grant anticipatory bail to the present applicants. Hence, the following order :

i) Applications are allowed.

ii) In the event of arrest, applicant in Anticipatory Bail Application No.2937 of 2022 – Sandip Nagnath Mhatre and applicant in Anticipatory Bail Application No.2945 of 2022 – Pravin Sakharam Mhatre in connection with Crime No. 70 of 2022 registered at Kamothe Police Station, Navi Mumbai for the offences punishable under Sections 307, 324, 143, 147, 148, 149, 323, 427, 504 of Indian Penal Code and

Sections 37(1)(3) and 135 of the Maharashtra Police Act, they shall be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each with one or more sureties in the like amount.

(iii) The applicants shall not stay at Village : Kamothe, Navi Mumbai till conclusion of the trial and shall seek permission of the trial Court in case they are required to enter the said village.

(iv) In view of the disposal of the anticipatory bail applications, the interim applications do not survive and the same are also disposed of.

(N.R. BORKAR, J.)

KANCHAN
PRASHANT
DHURI

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by KANCHAN
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