

...Respondent

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Mr. Sachin Punde for the Intervener.

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DATED : 5 DECEMBER 2022

This is an application under Section 438 of the Code of Criminal Procedure.

3. The applicants and the complainant are relatives. There is a dispute between the complainant and applicant No. 1 on account of partition of land bearing survey No. 53/14 at Mouze-Bambavi,

Taluka-Panvel Dist. Raigad. It is alleged that on 23 November 2022 the Complainant had gone to village Bambavi. The alleged incident took place, while the complainant was returning home by his car from the said village Bambavi. According to the prosecution the present applicants and other co-accused accosted the complainant while he was on his way to home and assaulted him.

4. I have heard the learned counsel for the applicant, the learned APP for the respondent-State and the learned counsel for the injured intervener.

5. The learned counsel for the applicant submits that the complainant has lodged the false report against the applicants because of the property dispute. The applicants are ready to co-operate in the investigation and there is no need of custodial interrogation.

6. On the other hand the learned APP submits that the applicant No. 1 is involved in two more crimes. It is submitted that considering the nature of the the offence the applicants may not be released on anticipatory bail.

7. It appears that at the time of alleged incident the applicant No. 1 was armed with iron rod. He assaulted the complainant. Considering these facts and as there are criminal antecedents, I am

not inclined to release the applicant No. 1 on anticipatory bail.

8. As regards the applicant No. 2, the allegations of assault are not against him. Considering the facts and circumstances of the case, I am inclined to release the applicant No. 2 on anticipatory bail. Hence, the following order is passed:

- (i) Application is partly allowed.
- (ii) In the event of arrest of applicant No. 2 Rohit Rajendra Bhoir in Crime No. 291 of 2022 registered at Kamothe police station for the offence punishable under Section 143, 147, 149, 307, 341 of the Indian Penal Code, he shall be released on bail on furnishing PR bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall attend the concerned police station from 7 December 2022 to 9 December 2022 between 11.00 am to 2.00 pm, and thereafter as and when called and co-operate in the investigation.

9. The Interim Application No. 4123 of 2022 for intervention is not on board. The same is taken on board.

10. In view of disposal of anticipatory bail application the intervention application does not survive and the same is disposed of.

**( N.R. BORKAR, J. )**