

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPLICATION (ABA) NO.178 OF 2022**

Shivraj Raosaheb Patil and others

**Versus**

State of Maharashtra, through P.S.O. Chikhli, Tq. Chikhli, Dist. Buldhana

---

Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

---

Court's or Judge's Order

---

Shri Sunil Manohar, Senior Advocate a/b Shri D.V. Chauhan,  
Advocate for the Applicant.

Shri M.J. Khan, A.P.P. for the Non-applicant/State.

Shri Kuldeep Mahalle, Advocate (Appointed).

**CORAM : ANIL S. KILOR, J.**

**DATED : 12/04/2022**

1. This is an application seeking pre-arrest bail in Crime No.180 of 2022, dated 22.02.2022, registered with Police Station Chikhli, District Buldhana, for the offences punishable under Sections 143, 144, 147, 148, 149, 307, 504 and 506 of the Indian Penal Code against in all seven accused persons including the applicants.

2. It is the case of the prosecution that on the basis of the statement of victim recorded in the Hospital, the crime came to be registered against the accused persons. In the statement, he has stated that he is acquainted with the applicant No.1-Shivraj Raosaheb Patil, applicant No.2-Mukesh Dyaneshwar Padghan, applicant No.3-Govind Ramdas Devhade, Sanjay Aatar and Sandip Patil. He further states that he posted one Facebook post saying “*Shivjayanti Hi Sarvajanik Aahe ki Kamalichi Aahe*”. Thereupon, he received many phone calls raising objection to the said Facebook post.

3. He further states that he received a phone call on 20.02.2022 from the applicant No.1-Shivraj Patil who called him near Pangole Hospital in relation with the above referred Facebook post.

4. The complainant, on reaching there the applicants and other accused persons came there and the applicant No.1 abused the victim in filthy language and at that time the applicant Nos.2 and 3 caught hold the complainant. Thereafter, applicant No.1 took out a base ball bat and started assaulting to the complainant.

5. The victim had caused serious injuries in the said assault. Thereafter, brother in law of the complainant and his younger brother came their and they took the complainant to the Janjal Hospital. However, at that time, the applicants and other accused persons were already present there and again they took out the complainant from the vehicle and assaulted the complainant and also threatened him of dire consequences if he reports the said matter to the Police.

6. Thereafter, the relatives of the complainant had taken him to General Hospital, Buldhana and from they took him to Aurangabad for medical treatment, where the statement of the victim was recorded and the crime was registered against the accused persons.

7. Shri Manohar, learned Senior Advocate submits that the allegation made in the FIR are exaggerated one and therefore, it creates doubt and suspicion.

8. It is submitted that the story stated in the complaint is improbable and there is no witness to the incident of assault. He further submits that there is no mention of time and other details in the FIR.

9. Shri Manohar, learned Senior Advocate submits that the other four co-accused have been granted anticipatory bail by the Sessions Court and therefore, the applicants are entitled for parity.

10. Shri Manohar, learned Senior Advocate has drawn attention of this Court to the reply filed by the State, wherein the State has sought custody of the applicants to recover clothes which the applicants were wearing at the time of incident. It is submitted that there is no purpose to seek custody of the applicants, as while granting *ad-interim* anticipatory bail, one of the conditions was to attend the Police Station and accordingly, the applicants attended the Police Station on many occasions.

11. Shri Manohar, learned Senior Advocate further points out that the alleged base ball bat which was used at the time of assault was seized by the Police.

12. He lastly, argues that there is a delay in lodging the FIR.

13. On the other hand, Shri Thakare, learned APP strongly opposes the application.

14. The learned APP has made available the Case Diary for perusal and from the Case Diary he has pointed out that there are eye witnesses to the

incident. He further points out the medical report and injuries caused to the complainant in the alleged assault. It is submitted that a specific role is attributed to the applicants in the FIR. He submits that CCTV footage corroborates the prosecution story. He further submits that even CDR is there which supports the case of the prosecution.

15. Shri Mahalle, learned counsel who is assisting the prosecution submits that while considering the request of grant of pre-arrest bail, whether the custody of the accused is necessary or not, is not the only factor to be considered but severity and seriousness of the crime is also the considerations. He further submits that as this Court while considering the application for pre-arrest bail cannot record the findings on merits of the matter, this Court cannot go into the issue whether all the details were mentioned in the FIR or not. He submits that this Court has to see whether *prima facie* incriminating material is there or not against the applicants.

16. Shri Mahalle, learned counsel further submits that this Court may take into consideration the conduct of the applicants whereby they made sure that the complainant would not get Hospitalized for medical treatment, by reaching to the Hospital before the applicants reached there and they again assaulted the complainant outside the hospital and threatened him of dire consequences. He submits that there are two spots where the incident of assault to the complainant took place. He lastly argues that looking to the brutality and conduct of the applicants in the whole episode of this alleged incident, the application may be rejected.

17. I have perused the Case Diary and also the contents of the FIR.

18. The prosecution has collected CCTV footage and also obtained certificate under Section 65-B of the Evidence Act relating to the said CCTV footage. Panchanama of the CCTV footage *prima facie* corroborates the prosecution story. Furthermore, CDR is collected which also supports the prosecution story about the call made by the applicant No.1 to the complainant. The delay in this matter has already been explained by the complainant in the report. There is specific mention that after reaching the Janjal Hospital the complainant noticed that the applicants were already there, where they again assaulted by the applicants because of which his relatives were required to take him to Buldhana General Hospital and from there to Aurangabad and only after hospitalization at Aurangabad his statement was recorded by the Police.

19. There are eye witnesses to the incident who have stated the names of the applicants in their statements. Moreover, the nature of injuries are serious.

20. Thus, having considered the above referred *prima facie* incriminating material available on record against the applicants, I am not inclined to grant pre-arrest bail to the applicants. Accordingly, I pass the following order.

The criminal application is **rejected**.

[ANIL S. KILOR, J.]