

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**ANTICIPATORY BAIL APPLICATION NO. 192 OF 2023**

1. Sayed Mukhtar Sayed Sardar

2. Sayed Ansar Sayed Noor

..APPLICANTS

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. N.S. Ghanekar, Advocate for applicants

Mr. N.T. Bhagat, A.P.P. for respondents

Mr. S.N. Lute, Advocate for intervener

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**CORAM : R.G. AVACHAT, J.**

**DATED : 27<sup>th</sup> MARCH, 2023**

**PER COURT :**

1. This is an application under Section 438 of Code of Criminal Procedure. The applicant claims to have an apprehension of being arrested in connection with Crime No. 610 of 2022 registered with Badnapur Police Station, Dist. Jalna for the offences punishable under Sections 326, 324, 323, 143, 427, 504 and 506 of the Indian Penal Code ('I.P.C.').

2. Heard. Perused First Information Report ('F.I.R.') and related police papers.

3. F.I.R. has been lodged by the victim himself in relation to the incident that took place on the same day i.e. on 27<sup>th</sup> December, 2022. It has

been alleged in the F.I.R. that the applicants and co-accused came together. It was about 10:00 a.m. The applicants asked the informant to reopen the partition of the family land that took place thirty-five years ago. Over the said issue quarrel ensued between the informant on one hand and the applicants and co-accused on the other. It appears that the land in possession of the informant was being used for setting up a petrol pump thereon. A civil dispute is pending in the Court. The informant, therefore, requested the applicants and co-accused not to quarrel with him. He attempted to reason with them. Thereupon, all of them assaulted on his shoulder with the stick. When the informant's two sons intervened, they too were not spared. They were assaulted with fists and kicks.

4. Learned A.P.P. and learned counsel for the informant would submit that the informant is sixty-two years of age. A grievous injury has been caused by the applicants and co-accused. Although in the F.I.R. the allegations are common one, the subsequent statement of the eye witness viz. the Sarpanch, indicates the assault with stick has been attributed to the applicants herein. According to learned counsel, if the applicants are granted anticipatory bail, they would again assault the informant. Learned counsel for the intervener further submits that the applicants have criminal antecedents.

5. Considered the submissions advanced. The informant suffered grievous injury to his shoulder, cause thereof is said to be the assault with stick. The informant himself lodged the F.I.R. on the same day alleging both, the applicants and five others assaulted him with sticks. If such is the case, the informant must have suffered more than one injury. It thus appears that the informant has given some exaggerated version of the incident. True, he has suffered grievous injury. The F.I.R. is however silent to suggest whom the injury is attributed specifically. Other five co-accused, who have also been attributed with similar allegations, have been granted anticipatory bail. As such, from the F.I.R. the case of the applicants is at par with those, who have granted relief in the nature of anticipatory bail.

6. Learned counsel for the applicants has reason to contend that subsequent statements have been made only with a view to ensure that at least the present applicants are kept behind the bars. Even both the applicants are attributed with the assault with the sticks. The informant suffered one injury. Again there would be a question to whom the same be specifically attributed. The informant is reported to have been discharged from the hospital.

7. Considering the allegations in the F.I.R. and similarly placed co-accused to have been granted anticipatory bail, present application needs to

be allowed. Hence order dated 10<sup>th</sup> February, 2023, granting the applicants ad-interim anticipatory bail, is hereby made absolute. The applicants shall appear before the investigating officer, as and when required for the investigating purpose. The applicants shall not tamper with the prosecution evidence.

**( R.G. AVACHAT, J. )**

SSD