

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

**ANTICIPATORY BAIL APPLICATION NO.470 OF 2023
WITH ABA/523/2023**

**PREMCHAND POONAMCHAND MAHTOLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA**

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**Advocate for Applicants in ABA/470/2023 : Mr. V. S.
Bhale**

**Advocate for Applicants in ABA/523/2023 : Mr. A. K.
Bhosale**

APP for Respondents:Mr. S. P. Sonpawale

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CORAM : R.M. JOSHI, J

DATE : JUNE 05, 2023

PER COURT :

1. On 06th March, 2023 PSI Gore attached to Osmanpura Police Station lodged FIR in respect of incident occurred at around 11 am. According to the informant when he went to Mahatule Lane there was quarrel taking place between two groups. When police intervened in the said quarrel, persons from both groups prevented police from the said intervention and thereafter started pelting stones towards them. In the said incident informant and other police personnel sustained injuries. On the basis of said information present applicants are apprehending arrest.

2. Learned Counsels for the Applicants states that Applicant No. 1 – Sangharsh in ABA/523/2023 is 80% disabled with one arm amputated from elbow. He also drew attention of this Court to the medical papers of the Applicant No. 2 – Ajaz indicating that on 22.07.2022 he sustained paralytic stroke. As far as Applicant – Premchand in ABA/470/2023 it is contended that he is not seen in the CCTV footage and has not been identified during investigation. Thus, according to them, there is no evidence to connect present Applicants to the crime in question. Hence, they are entitled for pre-arrest bail.

3. Learned APP opposed the Applications with submissions that in the incident in question two police personnel have sustained injuries and having regard to the nature of offence, it is not fit case to grant of anticipatory bail.

4. Perusal of the remand report dated 12.03.2023 shows that PSI Gore had sustained injury due to the assault caused on him by co-accused Santosh. It is not in dispute that the said accused was arrested and now has been released on bail. As far as present Applicants

are concerned, neither they are seen in CCTV footage to be the persons who had pelted stones at police nor they are being identified as the assailants.

5. Having regard to the nature of offences it cannot be said that all the accused were having intention to cause assault on police as the initial incident was a quarrel between two groups. In absence of any *prima facie* evidence on record to connect present Applicant with crime in question and as there is no recovery to be made at their instance, it is a fit case for grant of anticipatory bail.

6. Hence, the order:

ORDER

(i) In the event of arrest of the Applicants in connection with Crime No. 40 of 2023 registered with Osmanpura Police Station, Aurangabad for the offences punishable under Sections 141, 143, 147, 148, 149, 307, 353, 332, 333, 506 read with Section 34 of the IPC, they shall be released on bail on furnishing PR bond of Rs. 15,000 (Rupees Fifteen Thousand Only) each with one surety in the like amount.

(ii) They shall attend the concerned police

station as and when required for the purpose of investigation.

- (iii) They shall not contact witnesses directly or indirectly.
- (iv) They shall not interfere with the evidence in any manner whatsoever.
- (v) They are further directed to cooperate the investigating agency for further investigation.

(R.M. JOSHI, J.)

Malani