

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 754 OF 2023

Narayan Ramchandra Rathod & another Applicants

Versus

The State of Maharashtra & another Respondents

Mr. S. J. Salunke, Advocate for the applicants.

Mr. V. S. Badakh, APP for the respondents.

CORAM : R. M. JOSHI, J.

DATE : 5th JUNE, 2023.

PER COURT :

1. Applicants are apprehending arrest in connection with Crime No. 96/2023 for the offences punishable under Sections 326, 324, 504 read with Section 34 of the Indian Penal Code registered with Mantha Police Station, Dist. Jalna.

2. On 18th March, 2023, Savitribai Rathod informed to the police about occurrence of the incident on 8th March, 2023 at around 9.30 pm when she went to the shop of applicant No. 1 wherein quarrel was going on between applicants and Sharad, son of the

informant. When she went to the spot, she found Sharad was being assaulted with stick by the applicants. It is specifically alleged in the First Information Report that Narayan assaulted Sharad with stick on his head whereas Sachin assaulted him on his left hand causing grave injury to him.

3. Learned counsel for the applicants states that there is unexplained delay of 10 days in lodging the First Information Report. He further drew attention of this Court to the fact that dispute arose between the parties on the previous date and hence possibility of false implication cannot be ruled out. In order to seek relief insofar as applicant No. 1 is concerned, it is sought to be contended that in view of the judgment of Hon'ble Apex Court in the case of Siddharam Satlingappa Mhetre vs. State of Maharashtra and others, (2011) 1 **Supreme Court Cases 694**, the Court is required to evaluate the evidence carefully when the prosecution seeks help of Sections 34 and 149 of the Indian Penal Code.

4. Learned APP opposed the said contention by referring to the statements of witnesses and the injury certificate. According to him, informant is the mother of the injured who was hospitalised for

ten days and the said fact itself is an explanation for not lodging report instantly.

5. The Hon'ble Apex Court in the case of Sidram (supra) has observed that the Court must carefully examine the entire available record and particularly the allegations which have been directly attributed to the accused and those allegations are corroborated by other material circumstance on record. Admission of injured son of informant in hospital for 10 days itself is the circumstance explaining delay for lodging of First Information Report. This, therefore, does not become ground for its discardance. In the instant case, First Information Report as well as statements of witnesses indicate that both the applicants caused assault on the injured with sticks. There is medical evidence to indicate causing of head injury and also fracture to the left hand of the injured. Thus, at this stage, it cannot be said that the applicants are falsely implicated in the crime. Application of offence punishable under Section 326 of the Indian Penal Code is duly supported by medical evidence on record. Having regard to the fact that weapon is used for assault and also considering the prima facie involvement of applicants in the crime, this is not a fit case for grant of anticipatory bail.

6. Hence, the application stands dismissed.

(R. M. JOSHI)
Judge

dyb