

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

ANTICIPATORY BAIL APPLICATION NO.928 OF 2023

SHEKHAR POPAT CHANDWADE AND OTHERS
VERSUS
THE SUPERINTENDENT OF POLICE, AURANGABAD RURAL,
AURANGABAD AND ANOTHER

...

Advocate for Applicants : Mr. S. V. Wakale
APP for Respondents: Mrs. G. L. Deshpande
Advocate for Respondent No. 3 : Mr. S. G. Ladda
(through VC)

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CORAM : R.M. JOSHI, J
DATE : OCTOBER 30, 2023

PER COURT :

1. Applicants apprehend arrest in connection with with C.R. No. 62 OF 2023 registered with Devgaon Police Station, Dist. Aurangabad for the offences punishable under Sections 143, 147, 148, 323, 326, 504, 506, 427 of the Indian Penal Code.

2. First informant reported incident occurred on 16.04.2023 wherein Applicants and co-accused were plucking corn from the tree belonging to the informant without permission. When the same was questioned, the Applicants assaulted mother of the informant. Applicant Shekhar and Girdhari assaulted mother of the informant whereas other accused persons assaulted informant with

stick. Similarly, his son was also injured in the said incident.

3. Learned Counsel for the Applicants submits that the alleged incident has occurred on 16.04.2023, however, report thereof was lodged on 23.04.2023 and considering the delay of six days, the possibility of false implication is not ruled out. He further submits that even if the allegations in the FIR are accepted as it is and considering the fact that simple injuries were caused to the mother of informant and no injuries are seems to have been caused to informant and his son, offence punishable under Section 326 IPC is not made out.

4. Learned APP and learned Counsel for informant opposed the application. It is the contention of learned Counsel for the informant that pressurizing tactics are adopted by the Applicants after occurrence of incident and they have even pressurized the father of the informant and out of fear, he was forced to consume poison on 24.06.2023. Thus, according to him, affidavit obtained from informant recording compromise is also not by free will. By referring to the injury

certificate of mother of informant it is sought to be argued that the injury was caused to her head and that she was hospitalized for the period of ten days. It is also submitted that there is no substance in the contention of the Applicant that there is deliberate delay in lodging FIR.

5. Even if the contentions of Counsel for the informant are accepted that the delay is not deliberate, however, at the same time it cannot be ignored that from the material placed before the Court the offence punishable under Section 326 IPC is *prima facie* is not made out. The injury certificate of the mother of the informant does not show that she sustained any grievous injury. She was not hospitalized for a period of 20 days nor there is anything on record to indicate that for this period she was unable to carry out her daily pursuits. In such circumstances, the injury caused to the mother of the informant cannot be considered as grievous injury as contemplated by Section 320 IPC. Applicants have no criminal antecedents. Offence alleged against them cannot travel beyond offence under Section 324 of IPC. For the

purpose of recovery of any weapon, if any, the Applicants be treated in the custody of police.

6. In view of above, application stands allowed by confirming interim order dated 21st June, 2023 with a condition that Applicants to attend concerned police station as and when called by IO.

7. Pending application, if any, is also disposed of.

(R.M. JOSHI, J.)

Malani