

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

ANTICIPATORY BAIL APPLICATION NO.996 OF 2023

**KUNDAN S/O KHEMA RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. A. R. Lukhe, Advocate for the applicant
Mr. S. W. Mundhe, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 11th SEPTEMBER, 2023

P.C. :-

1. Applicant apprehends arrest in connection with 175/2023 registered with Ghansawangi Police Station, Tal. and Dist. Jalna for the offences punishable under Sections 307, 326, 324, 323, 504, 506, 34 of IPC.

2. Informant Kailas has lodged report to the police in respect of the incident occurred on 07/05/2023. He has stated in the said report about the previous disputes between the parties relating to the matrimonial disputes of his elder sister. It is a case of the informant that the informant along with his father went to the house of co-accused. At that place altercations took place between them. It is further alleged that co-accused assaulted the informant and his father with handle of spade and it is alleged that the present applicant caused assault on the face of his

father with wooden plank. In the said incident he sustained injuries.

3. Learned counsel for the applicant states that there are dispute between the parties and counter report has been lodged in respect of the said incident. It is his submission that owing to the disputes the false/over implication cannot be ruled out. He also states that the applicant is aged about 70 years. He by referring to the report submitted before the concerned Court by the Investigating Officer has pointed out that the weapon allegedly used by the present applicant in this crime has already been seized and hence his custodial interrogation is not necessary.

4. Learned APP opposed the application by referring to the specific allegation made against the applicant of causing assault on the face of the injured which is duly supported by the injury certificate placed on record. It is his submission that though some recovery has been done from the co-accused, it is not necessary that the said weapon is used by the present applicant. He submits that having regard to the seriousness of the injuries caused to the father of the informant, and considering the role of the applicant it is not a fit case to grant anticipatory bail.

5. The applicant is aged about 70 years with no criminal history. There is no dispute about the fact that the parties are at loggerheads

and in respect of the incident dated 07/05/2023 counter reports are lodged. The first information report itself shows that the informant and his father had been to the house of co-accused. Though it is sought to be argued by learned APP that there are allegations against present applicant of he causing assault with the wooden ply on the face of injures with support of the injury certificate, however, it cannot be ignored that there are disputes between the parties. Such existence previous enmity creates possibility of over implication. Admittedly, the weapon in allegedly used by the applicant is seized, thus, the custodial interrogation of the applicant is not necessary. Taking into consideration the possibility of over implication and age of the applicant, his liberty deserves to be protected. Hence application is allowed in terms of interim order dated 26th June, 2023.

(R. M. JOSHI, J.)

ssp