

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

ANTICIPATORY BAIL APPLICATION NO.869 OF 2023
WITH CRIMINAL APPLICATION NO. 2269/2023

1. SIRAJ CHANDKHAN PATHAN

2.JAKER AFSARKHAN PATHAN

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

WITH

ANTICIPATORY BAIL APPLICATION NO. 910 OF 2023
WITH CRIMINAL APPLICATION NO. 2270/2023

AFSAR CHANDKHAN PATHAN

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. A. S. Gandhi

APP for Respondents: Mr. V. S. Badakh

Advocate for informant: Mr. V. P. Savant

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CORAM : R.M. JOSHI, J

DATE : JULY 03, 2023

PER COURT :

1. Applicants apprehend arrest in connection with with C.R. No. 128 of 2023 registered with Chaklamba Police Station, Tq. Georai, Dist. Beed for the offences punishable under Sections 307, 324, 326, 34, 504, 506 of the Indian Penal Code.

2. On 16.05.2023 first information report came to be lodged at the instance of Smt. Hamida who reported

the incident occurred on 10.05.2023 in which Applicant – Afsar called upon her to give way from her agricultural field for going to the field of the Applicants. When she refused to the same, Applicants abused her. She claims that Applicant – Afsar instigated his son Shakir to cause assault on informant with axe. Thereafter, Shakir assaulted her with the axe on his hand and over head resulting into causing of injury.

3. Learned Counsel for the Applicants state that there are disputes between parties and owing to the same false implication cannot be ruled out. He further states that there are no allegations of causing of assault or any overt-act against present Applicants. He, therefore, seeks pre-arrest bail.

4. Learned APP as well as learned Counsel for informant opposed the application by submitting that the contention of the informant in the FIR about causing of injury to head is duly supported by the injury certificate. According to the Counsel for the informant Afsar in fact is responsible for the occurrence of the said incident, and therefore, his

application for bail may not be considered.

5. Learned Counsel for the informant states that after grant of interim bail, Applicants have threatened informant and in this regard, NC is lodged with the concerned police station.

In response to this, learned Counsel for the Applicants, on instructions, makes statement that Applicants will not enter the jurisdiction of the concerned police station till filing of the charge-sheet.

6. There is no dispute about the fact that parties herein do not share the cordial relationship. Civil disputes are pending between them. Perusal of the FIR shows that the act of causing of assault on the informant can be attributed to co-accused Shakir who is arrested and released on bail. As far as Applicants Siraj and Jaker are concerned, neither there is allegation against them of causing any injury to the informant or helping to the co-accused. Hence, their liberty deserves to be protected. As far as Applicant – Afsar is concerned, he is aged about 72 years.

7. The statement made by Counsel for the Applicants, on instructions, about not entering jurisdiction of the concerned police station till filing of the charge-sheet will take care of apprehension of informant about pressurizing informant or witnesses

8. Having regard to the previous disputes and enmities between parties, the over implication of these Applicants cannot be ruled out. Hence, the applications are allowed in terms of interim order dated 05th June, 2023 and 20th June, 2023 respectively with a condition v that Applicants not to enter jurisdiction of concerned police station till filing of the charge-sheet, as per undertaking given to this Court.

9. Pending applications are also disposed of.

(R.M. JOSHI, J.)

Malani