

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

ANTICIPATORY BAIL APPLICATION NO.1377 OF 2023

SACHIN ARJUN MALI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr. P. C. Mayure
APP for Respondents: Mr. G. O. Watamwar

...

CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 13, 2023

PER COURT :

1. Applicants apprehend arrest in connection with with C.R. No. 135 of 2023 registered with Songir Police Station, Dist. Dhule for the offences punishable under Sections 326, 324, 323, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code.

2. The first informant has reported the incident occurred on 24.05.2023 at about 10 to 10.30 pm. It is his contention that there was altercations between him and co-accused Bhavesh. He claims that Bhavesh called present Applicants and other accused persons. They all assaulted him with wooden sticks and iron rod. There is specific allegation against co-accused Sunil of causing injury on his head with sharp edged weapon and Tushar

assaulted him with wooden rod. There is general allegation against other that they caused assault with wooden stick and iron pipe.

3. Learned Counsel for the Applicants submits that though name of the Applicants are mentioned in the FIR, there are no specific overt-act against them.

4. Learned APP opposed the application by referring to the injury certificate of informant as well as witness which indicates of causing of grievous injury to one of them. It is his contention that since all accused have caused assault together, the particular injury cannot be attributable to one of them.

5. Perusal of the FIR though mentions the name of the present Applicants but there is specific role attributed to co-accused Sunil and Tushar that they caused assault with sharp edged weapon and iron rod. It is pertinent to note that there are 12 accused persons who said to have been caused assault over the informant and witnesses, whereas three injuries are found on their person. Even if this Court accepts the contention of

learned Counsel for the Applicants that in case the assault by number of persons the injuries cannot be attributable to any particular accused but at the same time it cannot be ignored that if 12 persons caused assault on the injured but not more than two injuries caused to him. In such circumstances, over implication is clearly seen. Perusal of police papers shows that spot panchnama was done wherein number of broken wooden sticks have been seized.

6. In view of above, application stands allowed by confirming order dated 23rd August, 2023.

(R.M. JOSHI, J.)

Malani