

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

**BAIL APPLICATION NO. 1498 OF 2023
WITH
CRIMINAL APPLICATION NO.3353 OF 2023**

1. Dnyaneshwar Babasaheb Ghorpade

2. Uttam Namdev Ghorpade

... Applicants

Versus

The State of Maharashtra

... Respondent

...

Mr. N. B. Narwade, Advocate for the Applicants

Mr. S. P. Deshmukh, APP for the Respondent/State

Mr. R. R. Karpe, learned Advocate for the Informant

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 08.09.2023

PER COURT :

1. Heard the learned Advocate for the applicant, learned Advocate for the informant and learned APP for the respondent/State.
2. By this application, the applicants seek regular bail in connection with Crime No.760/2023 registered with Pathardi Police Station, Tq. Pathardi, Dist. Ahmednagar for the offences punishable under Section 307, 326, 324, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code [for short 'IPC']
3. The investigation was set in motion on the basis of information given by one Jyoti Santosh Ghorpade. It is alleged that, on

22/07/2023 at about 4:30 pm, the accused persons arrived at the house of the informant. They were holding wooden sticks, iron rods and similar weapon in their hands. It is further alleged that, the accused persons suddenly attacked on the family members of the informant. They have suffered injuries. On the basis of such information, the aforesaid offence has been registered. The applicants – accused are arrested on 02/08/2023 in pursuance of the registration offence. They were remanded to the police custody till 09/08/2023. The recovery of iron rod is attributed against applicant no.1. The prayer for grant of regular bail made by the applicants before the Session Court has been rejected. Hence, this bail application.

4. Mr. Narwade, learned Advocate appearing for the applicants would submit that there is enmity between the family of the informant and the family of the accused on account of political reasons. He would submit that the incident as narrated in the FIR is exaggerated version. He would submit that in fact, the accused persons have also received serious injuries in the attack by the family members of the informant and a counter FIR has been registered against them. He would further submit that further detention of the applicants may not be necessary since the alleged recovery of incriminating articles is already made. As such, he urge to release the applicants on bail.
5. Mr. Deshmukh, learned APP and Mr. Karpe, learned Advocate appearing for the informant vehemently oppose the prayer for bail. They would submit that there are specific allegations in the

FIR, which indicate that, applicant no.1 was holding deadly weapon in his hand and caused injury on the vital part to the injured – Rohit. They would further submit that applicant no.2 has also inflicted injury to Uttam Ghorpade using wooden log. As such, the involvement of the applicants cannot be disputed. The medical certificates of injured person are also made available, which indicate that there are corresponding injuries suffered by the victims. Therefore, they urge to dismiss the application.

6. Having considered the submissions advanced, apparently, there was incident on 22/07/2023. The person from the family of the informant as well as accused had scuffle and both sides have raised assault against each other. However, there is nothing to indicate that either of them was intending to kill any one or the attack was made with such intention. Looking to the nature of weapons used and injuries caused, it would be difficult to hold that Section 307 of IPC would attract in such case. So far as the allegations against the applicants are concerned, it is alleged that applicant no.1 has used iron rod and hit on the head of victim – Rohit. Perusal of the injury certificate of Rohit do not show corresponding injury on his head. Similarly, as regards to the allegations against applicant no.2 are concerned, the victim has suffered simple injury. Further, applicant no.2 appears to be aged about 70 years. The recovery of incriminating articles is already given and the statement of the witnesses are also recorded. The further detention of the applicant would not be necessary. In that view of the matter, the case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicants, namely, (1) Dnyaneshwar Babasaheb Ghorpade and (2) Uttam Namdev Ghorpade be released on bail in connection with Crime No.760/2023 registered with Pathardi Police Station, Tq. Pathardi, Dist. Ahmednagar for the offences punishable under Section 307, 326, 324, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code on furnishing P.B. and S.B. of Rs.50,000/- (Rs. Fifty Thousand only) each on the following conditions:
 - a. The applicants shall visit concerned Police Station once in a week i.e. on every Thursday between 10:00 am to 2:00 pm, till filing of charge-sheet.
 - b. They shall not tamper with the prosecution evidence in any manner.
 - c. They shall not establish contact with the witnesses.
- (iii) Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE

Sameer