

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

**ANTICIPATORY BAIL APPLICATION NO.1521 OF 2023
WITH ABA/1144/2023**

Somnath Ganpat Ghule

...Applicant

Versus

The State Of Maharashtra

...Respondent

Mr. A.B. Girase, Advocate for the applicant in ABA No. 1521/2023.

Mr. D.K. Dagadkhair, Advocate for the applicant in ABA No. 1144/2023.

Mr. V.S. Badakh, APP for State.

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CORAM: R.M. JOSHI, J

DATE : 3rd NOVEMBER, 2023

PER COURT :

1. Applicants apprehend arrest in connection with with C.R. No. 503/2023 registered with Pathardi Police Station, Dist. Ahmednagar for the offences punishable under Sections 302, 324, 323, 143, 147, 148, 149, 504, 506 of the Indian Penal Code.

2. Informant Rajendra reported the incident dated 22.05.2023 occurred at about 1.00 pm. It is his contention that Shahadev, Shubham and Sandip came to the spot along with other unknown persons. They were carrying wooden sticks and knife in their hand. It is alleged that Sandip and Shubham assaulted wife of the informant over head and in the said assault she sustained serious injury. There is allegation against the Shahdev that he assaulted with wooden sticks to Dhanraj. In the said assault, wife of the informant died.

3. Learned counsels for the applicants submits that even if statements made in the FIR are accepted to be true, no offence punishable under section 302 gets attracted against them. It is submitted that there is no enmity between the applicants and informant in order to have motive for them to kill the wife of the informant. By referring to the post mortem notes it is submitted that the deceased died due to injury on head which is not attributed to the present applicants.

4. Learned APP opposed the applications by submitting that present applicants came along with co-accused and they were armed with weapons. Thus, according to him, this shows the common object of accused persons to cause assault and since in the assault caused by co-accused deceased died, applicants are also responsible for the same.

5. Now charge sheet in the matter has been filed. Perusal of charge sheet does not show that applicants are having any dispute with the informant. Pre-existing dispute is alleged against the co-accused. Merely, because applicants accompanied co-accused, it cannot be held that they had been to the spot with common object in their mind. Even otherwise, FIR shows that the assailants came for causing assault on informant and his son. It seems that unfortunately wife of informant sustained injury in the said assault. Hence, as far as present applicants

are concerned, prima facie it cannot be said that they shared common object with co-accused for killing the deceased.

6. Having regard to these facts, prima facie offence punishable under section 302 of IPC does not get attracted to the applicants. Hence, the Anticipatory Bail Application No. 1521/2023 is allowed in terms of order dated 13.09.2023 and Anticipatory Bail Application No. 1144/2023 is allowed in terms of order dated 14.07.2023.

[R.M. JOSHI, J.]