



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

ANTICIPATORY BAIL APPLICATION NO.1381 OF 2023
WITH APPLN/3570/2023 IN ABA/1381/2023

1. Kashinath Narayan Kendre
 2. Atmaram s/o Dagdu Chate
- ... APPLICANTS

VERSUS

1. The State of Maharashtra
 2. The Superintendent of Police
- ... RESPONDENTS

Mr. Y. B. Bolkar, Advocate for the applicants
Mr. M. K. Goyanka, APP for the respondent/State

CORAM : R. M. JOSHI, J.
DATE : 7th DECEMBER, 2023

P.C. :-

1. Applicants apprehend arrest in connection with Crime No. 118 of 2023 registered with Bardapur Police Station, Tq. Ambajogai, District Beed for the offences punishable under Sections 327, 325, 341, 323, 504, 506 r/w 34 of IPC.

2. First informant lodged report in respect of the incident occurred on 30/07/2023. There is allegation made by him that the present applicants and co-accused obstructed him while he was going on his two wheeler they abused him by saying that as the proceeding in respect of the land is decided in his favour, he has become arrogant. Allegation is against

applicant No.1 that he has assaulted informant with iron rod on his left elbow whereas the allegation is made against applicant No.2 and co-accused that they assaulted him with sickle, kick and fist blows. There is also allegation to the extent that Atmaram snatched the gold chain and Sitaram took away cash of Rs.1200/- found his pocket.

3. Learned counsel for the applicants submits that there are disputes between the parties and owing to the said disputes the possibility of false/over implication is not ruled out. He drew attention of the Court to the observations made by the learned Addl. Sessions Judge claiming that there are three witnesses who have not supported the allegations against the applicant No.1 of causing assault. It is his further submission that the applicant No. 1 is aged about 65 years and owing to his age he is entitled for pre arrest bail.

4. Learned counsel for the informant and learned APP opposed the application by drawing attention of the Court to the injury certificate indicating the causing of fracture injury to the left elbow of the informant. Thus, according to them the said injury is attributable to applicant No.1 and hence he is not entitled for pre arrest bail. As far as applicant No.2 is concerned, it is submitted that there are consistent statement of all witnesses except few variations with regard to the

snatching of gold chain and money. Hence they are not entitled for pre arrest bail.

5. Applicant No.1 is aged about 65 years. There is no dispute about the fact that parties are at loggerhead owing to the previous enmity over the property. Needless to say that the enmity between the parties on one hand may give rise to the commission of crime and on the other hand this could be a cause of false implication too. Herein this case there is one eye witness who does not claim that the applicant No.1 having assaulted the informant on his elbow. Similarly three witnesses do not support the allegations of snatching of gold chain and money. Thus, definitely some doubt is created with regard to the story of the prosecution. At this stage owing to the age of applicant No.1 and role of applicant No.2, the application deserves to be allowed in terms of interim order dated 24th August, 2023. Applicants be treated in the custody of police for the purpose of recovery of any incriminating article if any. Pending application, if any, stands disposed of.

(R. M. JOSHI, J.)

ssp