

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1087 OF 2023

1. Ganesh Bhagwan Sonawane
Age : 40 Years, Occupation : Policeman
R/at : A/1701, Mohan Areca Shirgaon
Badlapur, District : Thane.
2. Gajanan Murlidhar Jogdande
Age : 40 years, Occupation : Policeman
R/at : 1303, Mohan Areca, Shirgaon
Badlapur, District : Thane. ...Applicants

vs.

The State of Maharashtra
[Through Badlapur (E) Police Station,
District : Thane City] ...Respondent

Mr.Dilip B. Shinde – Advocate for Applicants.
Mr.H.J.Dedhia – APP for the Respondent-State.
Mr.H.M.Kulkarni – API – Badlapur (East) Police Station).

CORAM : S. M. MODAK, J.

DATE : 2nd MAY, 2023

P. C. :-

1. Heard learned Advocate for the Applicants and learned APP for the Respondent-State. Officer is present.
2. Both these Applicants were working in Police Department and it appears that they are deputed at Navghar Police Station. Both of

them have purchased rooms in Mohan Areka Building at Shirgaon-Badlapur. Builder is the First-Informant - Sunil Mohandas Harchandani, whereas, one Lucky Ravi Shringi is the partner.

3. The incident took place on 17th November, 2022 at about 2.30 p.m., in the office of the construction company. There is allegation that these Applicants entered in the office in order to assault them. There was short circuit in their room and hence, they were complaining to the partners why they are not paying attention to it. As a result, quarrel took place and both of them have assaulted the First-Informant and the partner – Lucky Shringi.

4. Initially, they slapped them and thereafter, the Applicant Gajanan removed some iron article from his pant pocket and gave a blow on the face of the First-Informant. As a result, he was injured so also his partner Lucky.

5. An FIR is registered at Badlapur Police Station on 17th November, 2022 for the offences punishable under Sections 324, 452, 323, 504, 506 read with 34 of Indian Penal Code, 1860 [“IPC”]. Both of them initially took treatment at rural hospital and thereafter, they were shifted to a private hospital. The doctors giving treatment opined that there is a nasal fracture to Sunil Harchandani and

accordingly, Police have applied Section 326 of IPC. The contention is that invocation of Section 326 of IPC is not warranted. Furthermore contention is that the incident has taken place without premeditation and it is booked on a sudden quarrel. It is submitted that custodial interrogation is not required.

6. Learned APP submitted that yet they have to recover the iron article and on the basis of certificate, invocation of Section 326 of IPC is warranted.

7. It is true that the Police can certainly alter the Section depending upon the nature of injury as certified by the doctor. It is very well true that when they were examined by the rural hospital, they have not noticed any nasal fracture. During investigation, the Police have also recorded the statements of employees of the First-Informant. They came on the scene after hearing commotion. Though they have said about assault by these Applicants, about the use of weapon, they have not said anything.

8. Considering the fact that the incident is an outcome of sudden quarrel and considering the fact that these Applicants are also government servants, I think they can be granted protection from arrest. The investigation can be carried out even by giving

attendance to the Police Station. Hence, order :-

O R D E R

- (i) In case of arrest in connection with C.R.No. 239 of 2022 registered at Badlapur Police Station (E) – Thane for the offences punishable under Sections 324, 452, 323, 504, 506 read with 34 of of IPC, the Applicants viz., (i) Ganesh Bhagwan Sonawane and (ii) Gajanan Murlidhar Jogdande be released on furnishing personal bond and surety bond of Rs.25,000/- each.
- (ii) Applicants to give attendance to Badlapur Police Station (E) – Thane on Monday from 10.00 to 12.00 noon till filing of charge-sheet.
- (iii) Applicants not to threaten the Prosecution witnesses or to allure them in any manner.

9. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with the law, uninfluenced by the observations made in this order.

10. Application is disposed of in the aforesaid terms.

11. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]