

VRJ

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

ANTICIPATORY BAIL APPLICATION NO.1928 OF 2023

Sunil Sopan Devadhe & Anr. ... Applicants

V/s.

The State of Maharashtra ... Respondent

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WITH

INTERIM APPLICATION NO.2777 OF 2023

IN

ANTICIPATORY BAIL APPLICATION NO.1928 OF 2023

Chandrabhan Dagdu Devade ... Applicant

In the matter between

Sunil Sopan Devade ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Bhushan U. Deshmukh for the applicants in ABA.

Mr. Amey Deshpande for the applicant in IA.

Ms. Veera Shinde, APP for the respondent/State.

Mr. Pradip Ajage, P. C. Chandwad Police Station, Nashik Rural is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 4, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.239 of 2023 registered with Chandwad Police Station, District Nashik Rural for offences punishable under sections 323, 324, 326, 504 and 506 read with section 34 of the Indian Penal Code, 1860, the applicants

are seeking relief under section 438 of the Criminal Procedure Code, 1973.

2. The prosecution case in short is as under:

The informant Chandrabhan Dagdu Devadhe, resident of Vaki (Khurda), Taluka Chandwad lodged complaint with Chandwad Police Station on 20th May 2023 at about 10:00 p.m. stating therein that complainant is residing with his family members. He is an agriculturist having agricultural land Gat No.72, in the name of Shivaji Devadhe and Kanhu Devadhe. The said land is in their possession. On 19th May 2023 at about 11:00 a.m. their servant went in Gat No.72 to bring grass from the field. At that time, his nephew Sunil Sopan Devadhe, Anil Sopan Devadhe, Meerabai Sopan Devadhe and Savita Anil Devadhe asked him not to cut the grass and they claimed that they are owners of the said land. Sunil called younger brother of the informant Shivaji Devadhe and asked him to come to the field, if he is having courage. Therefore, the informant, his younger brother and sons Ramkrushna and Gorakh went to the field. At that time, accused started beating them with the help of sticks and iron rods. Sunil Sopan Devadhe gave blow of iron rod on the head of Ramkrushna. Anil Devadhe gave blows of stick on the hands, legs and stomach of Shivaji and Gorakh. Meerabai and Savita slapped the informant and his family members. Accordingly, report was registered.

3. The applicants, thereafter, filed an application under section 438 of the Criminal Procedure Code, 1973. The Sessions Judge partly allowed the application granting relief to accused Nos.3 and

4; however, the Sessions Judge rejected the application as against accused Nos.1 and 2. Therefore, accused Nos.1 and 2 have filed present anticipatory bail application.

4. On 20th July 2023, the application was heard on merits. Considering the nature of injury and other factors, this Court was inclined to reject the application; however, on a submission made on behalf of the applicants that the medical papers produced on record in support of injuries suffered by victim are forged, the investigating officer was called upon to get the original register and other case papers.

5. On perusal of the original M.L.C. Register maintained by the hospital and other papers produced by the investigating officer, I am satisfied that the injury certificate produced on record is in relation to incident mentioned in the first information report.

6. The material on record indicates that the applicant No.1 was carrying iron rod and assaulted the victim on head. The applicant No.2 was carrying stick. The medical report corroborates role attributed to the applicants. The victim has suffered grievous injury. The injury suffered by the victim is incised wound on forehead caused by sharp weapon. The victim was, therefore, advised C.T. Scan. The C.T. Scan of brain indicated diffuse cerebral coleman.

7. On overall consideration of the facts and circumstances, no case for relief under section 438 is made out.

8. The anticipatory bail application is, therefore, rejected.

9. It is made clear that the observations made in this order are only for the purpose of deciding application under section 438 of the Criminal Procedure Code, 1973, and the trial Court shall decide the trial uninfluenced by the observations made in the present order.

10. In view of disposal of the anticipatory bail application, nothing survives in the interim application. The same is disposed of.

(AMIT BORKAR, J.)