

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 2544 OF 2023

SANTOSH
SUBHASH
KULKARNI

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SANTOSH SUBHASH
KULKARNI
Date: 2023.09.12
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Rayappa Bhimrao Somutte and ors. ...Applicants

Versus

State of Maharashtra ...Respondent

Mr. Vinesh Purwant, for the Applicants.

Mr. M. G. Patil, APP for the State/Respondent.

CORAM: N. J. JAMADAR, J.

DATED: 11th SEPTEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicants and the learned APP for the State.

2. This is an application for pre-arrest bail in connection with CR No.603 of 2023, registered with Mangalvedha Police Station, District Solapur, for the offences punishable under Sections 326, 324, 327, 504 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3. The first informant is the brother of applicant No.1. Applicant No.2 is the son of applicant No.1 and applicant No.3 is the wife of applicant No.1.

4. The first informant and applicant No.1 were at loggerhead over right of way to their respective fields. On 24th July, 2023 an altercation ensued over the notice issued by the Tahsildar at the instance of the first informant. In the scuffle that ensued, applicant No.1 Rayappa allegedly assaulted the first informant by means of an iron rod. Applicant No.2 Mhalappa assaulted Arjun, the first informant's son by the blunt side of the axe and also assaulted the first informant's nephew Revansidh. The first informant further alleged that applicant Nos.1 and 2 also snatched away a four gram gold pendent and applicant No.3 Laxmibai had thrown chilly powder.

5. The learned Counsel for the applicants submitted that in fact it was a case of a free fight. In the said incident, the applicants had also sustained injuries. The applicants had lodged FIR bearing CR No.608 of 2023 for the offences punishable under Sections 452, 326, 324, 323, 504, 506, 143, 147, 148 and 149 of the Penal Code as the applicants were assaulted by the informant party by forming an unlawful assembly consisting of seven persons.

6. I have perused the injury certificates of the first informant and injured Revansidh and Arjun. All the injured

seem to have sustained simple injuries. It seems that it was a case of a free fight. Members of both the groups seem to have sustained injuries. In the backdrop of the nature of the accusation and the fact that the first informant and the injured have sustained simple injuries, offence punishable under Section 326 does not seem to have been *prima facie* made out. The applicants have roots in the society. Possibility of fleeing away from justice seems to be remote.

7. I am, therefore, inclined to exercise discretion in favour of the applicants.

8. Hence, the following order:

: O R D E R :

(i) In the event of arrest of the applicants in CR No.603 of 2023, registered with Mangalvedha Police Station, District Solapur, the applicants be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, each.

(ii) The applicants shall cooperate with the investigation and attend Mangalvedha Police

Station on every Sunday in between 10.00 am. to 1.00 pm. for a period of one month.

- (iii) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any person acquainted with the facts of the case.
- (iv) The applicants shall regularly attend the proceedings before the jurisdictional Court.
- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]