



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

ANTICIPATORY BAIL APPLICATION NO. 2739 OF 2023

Onkar Shamrao Gudhage	...Applicant
Versus	
The State of Maharashtra	...Respondent

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

CORAM: N. J. JAMADAR, J.
DATED: 3rd October, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR No.564 of 2023, registered with Malegaon Police Station, Nashik Rural, initially for the offences punishable under Sections 323, 324, 504 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code"). Subsequently, it seems, offence punishable under Section 326 of the Penal Code has been added.
3. The first informant, who is the cousin of the applicant lodged, a report with the allegations that his uncle Shamrao and his sons Onkar, the applicant, and Dnyaneshwar,

another co-accused, raked up a quarrel over the use of well water. An altercations ensued. The applicant allegedly picked up an iron rod lying on the spot and gave a blow of the iron rod on the head of first informant's mother Sunita Gudhage.

4. The learned Counsel for the applicant submitted that in respect of the very same incident, co-accused Dnyanehwar had lodged FIR being FIR No.567 of 2023 for the offences punishable under Section 323, 324, 504 and 506 of the Penal Code. In fact, the alleged injured Sunita Gudhage had assaulted the Dnyaneshwar – the co-accused, by means of the blunt side of the sickle. Dnyaneshwar had suffered a bleeding injury. Attention of the Court was invited to the discharge card issued by Shri. Bhausahab Hire, Govt. Medical College and Hospital, Dhule.

5. The learned APP resisted the application on the ground that there are specific allegations of assault by iron rod qua the applicant.

6. *Prima facie* it appears that on account of the disputes between the brothers over the share of the well water and right of way, the two families have virtually a free fight. The members of both the groups had sustained injuries in the

fight. Two versions in respect of the one and the same incident came to be reported vide CR Nos.564 and 567 of 2023. The question as to whether an offence punishable under Section 326 of the Penal Code is made out, warrants adjudication.

7. The applicant appears to have roots in the society. Possibility of fleeing away from justice seems to be remote. I am, therefore, inclined to exercise the discretion in favour of the applicant.

8. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.564 of 2023, registered with Malegaon Police Station, Nashik Rural, the applicant be released on bail on furnishing a P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) The applicant shall cooperate with the investigation and attend Malegaon Police Station on 11th 12th and 13th October, 2023 in between 10.00 am. to 1.00 pm.
- (iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first

informant or any of the persons acquainted with the facts of the case.

- (iv) Application stands disposed.

[N. J. JAMADAR, J.]