



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3233 OF 2023**

Sagar Vitthal Balate and Anr.

... Applicants

versus

The State of Maharashtra

... Respondent

Mr. Sachin M. Bhavar, for Applicant.

Mr. S.H.Yadav, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 10 NOVEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No. 394 of 2018 registered with Indapur Police Station for the offences punishable under Sections 323, 324, 326, 143, 147, 148, 149 of the Indian Penal Code.
3. On 23 May 2018, an altercation allegedly ensued between the applicants and the first informant over drowning the electrical motor in the river. The applicant allegedly assaulted the first informant by means of an axe. Co-accused joined in the assault and the first informant was assaulted by means of iron rod and stick.
4. Learned Counsel for the Applicants submitted that the instant FIR was lodged as a counter blast to the report lodged by the applicants leading to C .R.No.391 of 2018. In the said occurrence, the applicant No.1 had sustained four fractures. Attention was invited to the injury certificate of the applicant No.1.

5. I have perused the allegations in the FIR and the injury certificate of the Applicant No.1 as well as the first informant. It appears that the first informant had sustained one grievous injury on the left hand in the nature of fracture of metacarpal. In contrast, the injury certificate of the applicant No.1 indicates that he had sustained four grievous fractures in all four limbs.

6. Prima facie, it appears that in the course of the said occurrence, the applicant No.1 had sustained severe injuries. The accused party had lodged FIR first in point of time. It appears in respect of the very same occurrence, two versions have been reported. The question as to who was the aggressor and whether the injuries were caused in exercise of right of private defence, would arise for adjudication. As regards the applicant No.2, no specific role appears to have been attributed in the FIR. Since the incident is of 2018, at this length of time, the custodial interrogation of the applicants does not seem to be warranted to facilitate further investigation. I am, therefore, impelled to allow the application.

7. Hence, the following order :

ORDER

(i) In the event of the arrest of the Applicants – Sagar Vitthal Balate and Vitthal Manohar Balate in connection with C.R.No.394 of 2018 registered with Indapur Police Station, they be released on bail on furnishing a PR bond in the sum of Rs.30,000/- each with one or two sureties in the like amount.

(ii) The Applicants shall co-operate with the investigation and report to Indapur Police Station on 22nd, 23rd and 24th November 2023 in between 10.00 a.m. to 1.00 p.m., and, thereafter, as and when directed.

(iii) The Applicants shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses and the persons acquainted with the facts of the case.

(iv) The Applicants shall regularly attend the proceedings before the jurisdictional Court.

(v) The Application stands disposed.

(vi) It is clarified that these prima facie observations are confined to determine the entitlement to pre-arrest bail only.

(N.J.JAMADAR, J.)