

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.310 OF 2023

(Arun s/o Shankar Landge and ors. Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.D. Chande, Advocate for the applicant.
Shri A.M. Kadukar, APP for the non-applicant/State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 07, 2023.

Heard.

2. Applicant Nos.1 to 4 have filed this application for grant of anticipatory bail in the event of their arrest in connection with Crime No.40/2023 registered at police station Ansing, District Washim under Section 143, 147, 148, 149, 324, 323, 452, 336, 504 and 506 of the Indian Penal Code.

3. The applicants have apprehended arrest at the hands of the police as one Abhay Shivaji Satav has lodged the report against the applicants on an allegation that on 25/02/2023 at about 11.30 a.m. the work of removing the encroachment was carried out by the Gram Panchayat. At the relevant time, his brother Vitthal Satav communicated with the officials of the Gram Panchayat that if they are removing the encroachment they should remove all the encroachment and should not show favour to anybody in the village. On that count, there was dispute between the said Vitthal Satav and the Gram Panchayat

officials. Thereafter, at about 1.00 p.m. there was quarrel between the present applicants and said Vitthal Satav. All the applicants along with other co-accused assaulted Vitthal Satav by means of iron rod, stick and stones. Due to the assault, said Vitthal Satav has sustained grievous injury. It is specifically alleged by the informant that applicant No.1 Arun Landge assaulted the injured by means of stone. Applicant No.3 – Nikhil Dhage assaulted by means of cutter and applicant No.4 – Umesh Landge assaulted by means of stick and applicant No.2 – Chandrakant Landge assaulted by means of stick. Due to the assault, Vitthal Satav has sustained grievous injuries and immediately, he was shifted to the hospital. Due to the assault, Vitthal Satav has sustained serious injuries. On the basis of said report, police have registered the offence against the present applicants.

4. As per the contention of the applicants that there was a scuffle between the applicants and injured Vitthal Satav and his brother. The cross complaints were lodged. The present applicants have lodged the report and to give counter blast to the report of the present applicants, this false report was lodged by the present informant. The report is lodged by the injured and his brother. It is further alleged that due to the previous disputes present applicants are falsely implicated in the alleged offence. The physical custody of the present applicants is not at all required. They are ready to produce the alleged weapons for the satisfaction of the

Investigating Officer. They are ready to abide by all the conditions imposed by this Court and will cooperate with the Investigation Agency and hence, they be released on anticipatory bail in the event of their arrest.

5. Said application is strongly opposed by the State on the ground that physical custody of the present applicants is required as they are committed serious offence. The injured was assaulted by weapons like stick, stones and cutter. The injured had sustained the head injury. The injured had sustained the hairline fracture, which is a grievous injury. Considering the nature of the offence and the gravity of the offence, custodial interrogation of the present applicants is required, and hence, application deserves to be rejected.

6. Heard learned Counsel for the applicants. He submitted that due to group rivalry, the present applicants are falsely implicated in the alleged offence. The injured had sustained the simple injury. The physical custody of the present applicants is not at all required as the applicants are ready to produce the alleged weapons for the investigation purpose. The other investigation that recording of the statement is practically completed by the Investigating Officer. In support of his contention, he placed reliance on the judgment of this Court in ***Ram Singh Vs. State of Maharashtra 2020 OnLine(Bom) 9312***, wherein this Court has observed that the applicants are ready to produce the weapons and the period of attending the police station shall be treated as deemed custody for

the purpose of Section 27 of the Indian Evidence Act. He further placed reliance on the decision in case of ***Sushila Agarwal and anr. vs. State of NCP Delhi (2020) 5 SCC 1***. Wherein the consideration for grant of anticipatory bail are discussed by the Hon'ble Apex Court. He submitted that as the applicants are ready to produce the weapons their physical custody is not at all required. Applicant No.1 has undergone the heart surgery recently and for all above these grounds they be released on anticipatory bail in the event of their arrest.

7. Learned Additional Public Prosecutor strongly opposed the application by submitting that the injury has sustained the grievous injury and custodial interrogation of the present applicants is required, and hence, the application deserves to be rejected.

8. Perused the recitals of the FIR. As per the recitals of the FIR, 13 to 14 people were gathered in front of the shop of the injured on the day of incident. Out of them these four applicants assaulted the injured by means of stones, stick and cutter. It further reveals from the injury certificate that the injured has sustained head injury which resulted into hairline fracture. Admittedly, cross-complaints are lodged against each other. The injured had sustained the incised wound on right side of head and middle of the head. He also sustained the injury on little finger of left hand and abrasion on the left side of the hand. The informant – Abhay Satav has also sustained the incised wound on right side as well as middle of head

and abrasion on little finger of left hand and other three injuries which were simple in nature. As per the contention of the learned Additional Public Prosecutor that the investigation is still in progress, their custodial interrogation is required as alleged weapons are to be recovered and further investigation is to be carried out.

9. Considering the role of the present applicants, it appears that they came at the spot of incident along with the weapons and used the said weapons to assault the informant. The Hon'ble Apex Court in catena of decisions, had discussed about the consideration for grant of anticipatory bail, wherein it is held that the anticipatory bail when can be granted and when cannot be granted. At the time of considering the anticipatory bail, the gravity of the offence, the role of the applicant, their availability for the investigation purpose are required to be seen. In the recent judgment in the case of **X vs. Arun Kumar 2022 LiveLaw (SC) 870**, wherein the Hon'ble Apex Court held that the custodial interrogation can be one of the ground to decline the custodial interrogation however, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

10. In view of the factual circumstances in the present case, the applicants who have used the weapons like stone, cutter and sticks and arrived at the spot of incident along with the weapons and used the said weapons to assault the injured, which resulted to cause grievous injuries to the injured. Considering the

seriousness of the offence, the custodial interrogation of the present applicants is required and therefore, they are not entitled for anticipatory bail in the event of their arrest.

11. For the reasons recorded above, the application deserves to be rejected and the same is rejected accordingly.

12. The trial Court shall not be influenced by the observations regarding the role of the present applicants while considering the bail application.

13. The trial Court shall decide the bail application on its own merits.

(URMILA JOSHI-PHALKE, J.)

**Divya*