



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 905 OF 2024

1) GAURAV PRAKASH JOSHI
2) TANMAY PRAKASH JOSHI
3) SACHIN LAXMIKANT SARAF
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

Mr.A.B. Kadethankar, Advocate for the applicants.

Ms.M.N. Ghanekar, APP for the respondent/State.

Mr. Chaitanya C. Deshpande, Advocate – Assist to APP.

CORAM : KISHORE C. SANT, J.
DATED : 18.07.2024

PC :-

01. Heard learned Advocates for the parties.

02. This application is for release of the applicants on bail in the event of their arrest in connection with Crime No.145 of 2024 registered with Pachod Police Station, Dist. Aurangabad for the offence punishable under sections 326, 323, 504, 506 r/w 34 of the Indian Penal Code.

03. The case in short is that the complainant Dr. Gaurav had been to his agricultural land on a call from his watchman that applicant No.3 – Sachin is demolishing poles on the boundary of the land. On that the dispute started. Applicant No. 3 thereafter threatened brother of the informant of dire consequences. He had been to the agricultural land along with his cousin

Virendra. On reaching there, they started marking of the boundary of the land. Thereafter, at around 01.00 p.m., applicant No.3 came along with other two applicants on the motor cycle. Applicant No.2 gave kick blow in the stomach of the informant. Applicant No.1 also started assault with fists and kick blows. Applicant No.3 caught hold the informant. Applicant No.2, thereafter, assaulted with circular iron blade, namely, digger from the side of its rod on the head. The informant tried to escape. However, in that attempt, he received fracture injury on the right hand shoulder. On this, complaint came to be lodged under sections 326, 323, 504, 506 read with section 34 of the Indian Penal Code. The applicants apprehending arrest, approached the Sessions Court. However, the learned Sessions Judge rejected the application by order dated 10.05.2024. Therefore, the applicants are before this Court.

04. This Court by order dated 04.06.2024 protected the applicants on certain conditions.

05. The learned Advocate Mr. Kadethankar vehemently argued that taking the case as it is, the main allegation is only against applicant No.2 Tanmay of using wooden log. So far as applicant Nos.1 and 3 are concerned, the allegations are that while applicant No.3 caught hold of the informant, applicant No.1 assaulted by kicks and fists blows. The allegations are only because of the dispute over the boundary of the land and that fact is admitted. A civil dispute is given criminal colour. From the allegations, there is no intention appearing of committing murder. In the altercation, the informant received injury. There is only one injury. He further submits that this Court

already protected the applicants. There is no complaint of flouting any of the conditions imposed by this Court and he prays for allowing the application.

06. The learned APP vehemently argued that it is a case of grievous injury. She also pointed out photograph of the injury received by the informant. She further submits that there are statements of eye witnesses and there is also recovery clearly pointing out guilt of the accused. She has invited attention of this Court to the injury certificate issued by Sahyadri Asthirog and Maternity Center, showing that the injury is grievous in nature i.e. fracture. The wooden log used is seen to be hard and blunt object or surface. Other certificate is by Rural Hospital, Pachod showing various injuries. One of the injuries is grievous injury. There are other contusion injuries on the forearm, shoulder and one to index finger. She, thus, submits that intention of the applicants is clear. There is also cross complaint showing that the incident has taken place. Cross-complaint is also lodged on the same day within two hours of the incident by Sachin Saraf i.e. present applicant No.3. The learned APP submits that thus, there is again apprehension of untoward incident, if the applicants are released on bail and prays for rejection of the application.

07. The learned Advocate appearing for informant Mr. Deshpande vehemently argued that this is a case where all the three applicants had been to the spot with intention to assault the informant. The wooden log used shows that it was a dangerous weapon. The injury caused is grievous injury. The informant was required to be hospitalized. He also prays for rejection of the application.

08. Considering the nature of the allegation, it is clear that injury received is grievous injury, however, wooden log cannot be said to be a dangerous weapon. It was only digger machine available there and same is used to assault from the side of iron rod and not from the side of the blades. Undisputedly, there is dispute between the parties. There is also allegation against the informant in the FIR filed by the applicants. From the allegations in the counter complaint, it is seen that the informant in this case assaulted applicant No.1 with iron rod. He was also required to be admitted in the Government Hospital. It is clearly a case of dispute between the parties. Now, the investigation is practically over. Recovery is also effected. There is no allegations of breach of conditions imposed by this Court vide order dated 04.06.2024. For all the above reasons, this Court is inclined to allow this application. Hence, following order :-

ORDER

(i) In the event of arrest of the applicants in connection with Crime No.145 of 2024 registered with Pachod Police Station, Dist. Aurangabad for the offences punishable under sections 326, 323, 504, 506 read with section 34 of the Indian Penal Code, they shall be released on bail on furnishing PR bond and solvent surety in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each.

(ii) The applicants shall attend the concerned police station as and when called by the Investigating Officer.

(iii) The applicants shall give their address and contact details like mobile number etc. to the concerned police station. In case,

there is change in the contact details, the same shall be immediately informed to the concerned police station.

(iv) The applicants shall not tamper with the evidence and shall not try to contact the prosecution witnesses.

(v) The applicants shall not enter jurisdiction of the concerned police station till filing of the appeal, except called by the Investigating Officer for the purpose of investigation.

[KISHORE C. SANT, J.]