



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 904 OF 2024

1) VAIBHAV BABA GAWALI
2) SHIVAJI BAJIRAO GAWALI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

Mr.Rahul R. Karpe, Advocate for the applicants.

Mr.A.M. Phule, APP for the respondent/State.

CORAM : KISHORE C. SANT, J.

DATED : 18.07.2024

PC :-

01. Heard learned Advocates for the parties.

02. The applicants are original accused Nos. 3 and 4, who are already protected by order passed by this Court dated 04.06.2024. The facts in short are that the informant, who happens to be cousin brother of these applicants lodged FIR with Police Station, Ahmednagar alleging that the present applicants along with others have beaten the informant and one other. Applicant No.2-Shivaji is alleged to have assaulted with wooden log. Applicant No.1-Vaibhav is alleged to have assaulted with wooden plank of the door of the house. Both have assaulted Dattatray and Akshay. The police, therefore, lodged FIR for the offences punishable under sections 307, 324,

323, 504, 506, 427, 143, 147, 148, 149 of the Indian Penal Code.

03. In view of lodging of the FIR, the applicants approached the learned Sessions Judge. However, the learned Sessions Judge rejected their application vide order dated 28.05.2024. The applicants are thus before this Court.

04. The learned Advocate Mr. Karpe for the applicants vehemently argued that there are no injuries on the vital part of the injured person. In fact, it is an incident, wherein both the parties have lodged complaint against each other. The complaint against other party is lodged at the instance of Kiran Shivaji Gawali, who is co-accused in the present case. On the basis of that information also, offence is registered under section 324, 504, 506, 336, 143, 147, 148, 149 of the Indian penal Code. Though the complaint by Kiran is lodged after 5-6 hours after the present complaint, it is for the reasons stated in the FIR. He submits that there are no injuries on the vital part of the injured person. The wooden log cannot be said to be a dangerous weapon to cause such injury, which would result in death. He further submitted that this Court has already protected both the applicants. There is no complaint of

misuse of liberty or flouting of any of the condition of the order dated 04.06.2024.

05. The application is vehemently opposed by the learned APP. He submits that two injured i.e. Akshay and Sagar have received injuries. The injuries though are stated to be simple, but considering the part of the body on which the injuries are received, it can be gathered that the intention was to kill. He further submits that lodging of the cross-complaint shows that the incident is admitted. He thus prays for rejection of the bail application.

06. After hearing the parties and after going through the FIR and perusal of the police papers, this Court finds that now the investigation is almost complete. Even recovery is done. Under such circumstances, now taking the applicants in custody will be of no use. The purpose can be served by putting conditions on the applicants. Hence, following order :-

ORDER

- (i) In the event of arrest of the applicants in connection with Crime No.250 of 2024 registered with Ahmednagar Taluka Police

Station for the offences punishable under sections 307, 324, 323, 504, 506, 427, 143, 147, 148 and 149 of the Indian Penal Code, they shall be released on bail on furnishing PR bond and solvent surety in the sum of Rs.25,000/- (Rupees Twenty Five 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 application is accordingly allowed and is disposed off.

[KISHORE C. SANT, J.]