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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1119 OF 2023

Zumbar Aneba Kamble

APPLICANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

WITH

ANTICIPATORY BAIL APPLICATION NO.1027 OF 2023

CCL Through his Mother

APPLICANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....

Mr. Nileshsingh J. Patil, Advocate for the applicants

Mr. S. B. Jadhav, APP for respondent - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 15th JANUARY, 2024

ORDER :

1. Applicants apprehend arrest in Crime No.050 of 2023 registered with Lohara Police Station, Lohara, Taluka - Osmanabad for offence punishable under section 307, 323, 143, 147, 148, 149, 504, 506 of Indian Penal Code.

2. FIR is lodged by Nagnath Surwase, alleging that on 7th December, 2022, at about 8.00 to 8.30 a.m. quarrel was going on between Shivaji, son of informant and Anil Kamble, son of

applicant Zumbar. At that time, applicant Zumbar brought axe and gave two blows of axe on head of Nagnath and Kamal wife of Nagnath was also assaulted. Due to blows of axe, informant Nagnath received head injuries and due to blow of iron rod given by Ramakant, right hand of informant Nagnath got fractured. Anil – son of informant Zumbar assaulted Shivaji Surwase, by wooden stick. Other accused persons also participated in the assault.

3. Heard learned advocate for applicants and learned APP for State. Perused the papers of investigation.

4. Learned advocate for applicants submits that applicant Zumbar has suffered grievous injuries in the incident. There is delay in lodging FIR and therefore, applicants may be released on anticipatory bail.

5. On the other hand, learned APP, by placing reliance on the papers of investigation in Crime Nos. 50 of 2023 and 296 of 2022, has strenuously opposed the applications.

6. Perusal of investigation papers show that informant Nagnath has suffered incised injury, lacerated injury on parietal and temporal region by a sharp pointed weapon. He also suffered trauma on forehead and right side face. All these

injuries are grievous. Smt. Kamal w/o Nagnath has suffered simple injuries like scratches, abrasion, blunt trauma etc. Injuries suffered by Nagnath are attributed to applicant Zumbar who has used axe for assault. The axe is yet to be recovered.

7. Though it is a fact that even applicant Zumbar had suffered grievous injury in the incident, fact remains that serious injuries appear to have been inflicted by applicant Zumber by using axe. His active participation in the crime is *prima facie* there on record.

8. Crime No. 296 of 2022 was registered at the instance of applicant Zumbar alleging assault on the part of informant Nagnath, Shivaji and Kamal. It is alleged that applicant Zumbar had suffered grievous injury. All the accused persons in the said crime were arrested and are released on bail.

9. Considering the serious offence committed by applicant Zumber and as his active participation is made out from the record, his custodial interrogation is necessary for effective investigation. Applicant Zumbar, therefore, does not deserve discretionary relief of anticipatory bail.

10. So far as applicant in Anticipatory Bail Application No.1027 of 2023 is concerned, considering the fact that he is minor and

he has allegedly assaulted the injured with stick in the incident and the stick is recovered, his custodial detention is not necessary in the facts of the present case. Hence, the following order

ORDER

- A. Anticipatory Bail Application No. 1119 of 2023 is rejected.
- B. Anticipatory Bail Application No. 1027 of 2023 is allowed by confirming interim protection granted by order dated 3rd July, 2023, on the same terms.
- C. Till filing of the charge sheet, applicant in ABA No. 1027 of 2023 shall attend the concerned police as and when called by the Investigating Officer.

[NITIN B. SURYAWANSHI]
JUDGE