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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1991 OF 2023

Ganesh Rambhaji Mote and Another

APPLICANTS

VERSUS

The State of Maharashtra

RESPONDENT

.....
Mr. Yogesh D. Kale, Advocate for the applicants
Mr. S. B. Jadhav, APP for respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 22nd JANUARY, 2024

ORDER :

1. Applicants are apprehending arrest in Crime No. 552 of 2023 registered with Vaijapur Police station, District - Aurangabad for offence punishable under section 307, 326, 504 read with 34 of the Indian Penal Code.

2. FIR is lodged by Sunil Rajendra Bothe alleging that on 15th October, 2023 at about 8.00 p.m. when he was going on motorcycle, at that time, Babasaheb Mote asked for lift. He gave him lift. On the way, accused Ganesh Mote and Kailas Mote came from behind. When he stopped motorcycle, accused persons asked him why he is not allowing excavation of sand from his field, situated at the bank of Narangi-Sarangi river. Thereafter

Babasaheb assaulted him with axe on head and caused a bleeding injury. Ganesh Mote assaulted him by koyata on chest and caused a grievous injury. When he felled down, Kailas assaulted him by means of an iron rod on his right leg. When he shouted for help, they threatened him and left the place. Thereafter, he was taken in the hospital and on the basis of his statement FIR came to be registered.

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

4. Learned advocate for applicants submits that there is previous enmity and, therefore, applicants are falsely implicated in the present crime. Offence under section 307 of the Indian Penal Code is not made out from the investigation papers.

5. Perusal of injury certificate shows that informant has suffered CLW on occipital region and skull, abrasion on chest and leg. Injury on occipital region is stated to be grievous. Considering the role attributed to applicants and injury certificate, it is clear that offence punishable under section 307 of the Indian Penal Code is made out. Merely because weapons used in the offence are recovered, that cannot be a ground to grant anticipatory bail to applicants. Since applicants'

involvement in the offence is made out from investigation papers, their custody is necessary for effective investigation. Applicants, therefore, do not deserve discretionary relief of anticipatory bail.

6. Anticipatory Bail Application is, therefore, rejected.

7. At this stage, learned advocate for applicants seeks continuation of interim protection granted to applicants. For the reasons stated in this order, the prayer for continuation of interim protection is rejected.

[NITIN B. SURYAWANSHI]
JUDGE