



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

ANTICIPATORY BAIL APPLICATION NO. 2152 OF 2023

1. Dnyaneshwar S/o. Sopan gite
Age: 42 years, Occu.: Agri. /Politics,
R/o. Andrud, Tq.Bhoom,
Dist.Osmanabad.
 2. Shrirang s/o Dnyanoba Gite
Age: 65 years, Occu.: Agri.,
R/o. Andrud, Tq.Bhoom,
Dist.Osmanabad.
- ..Applicants
(Ori. Accused)

Versus

1. The State of Maharashtra
Through the Police Station Washi,
Tq.Washi, Dist.Osmanabad.
 2. The Superintendent of Police,
Osmanabad, Dist.Osmanabad.
- ..Respondents.

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WITH

**CRIMINAL APPLICATION NO. 4616 OF 2023
IN ABA/2152/2023**

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- Sidheshwar Sadashiv Limkar
Age: 42 years, Occu.: Agriculture,
R/o. Andrud, Tq.Bhoom, Dist.Dharashiv. ..Applicant
(Orig. Informant)

Versus

1. Shri Dnyaneshar Sopan Gite
Age: 37 years, Occu.: Lecturer and Politics,
R/o. Andrud, Tq.Bhoom, Dist.Dharashiv
 2. The State of Maharashtra,
Through Police Station, Washi Police Station,
Tq.Washi, Dist.Dharashiv.
- ..Respondents

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Advocate for Applicants in ABA/2152/2023 : Mr.R.N.Dhorde, Senior Counsel i/b. Mr. Kishor R.Doke

Additional Public Prosecutor for Respondents-State : Mr.A.R.Kale

Advocate for Applicant in Criminal Application No.4616 of 2023 : Mr.M.D.Gitte and Mr.PD.Bachate

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 08 JANUARY, 2024

PRONOUNCED ON : 09 JANUARY, 2024

ORDER :-

1. Criminal Application No.4616 of 2023 is filed by informant seeking permission to assist Additional Public Prosecutor. Permission is granted. Accordingly, Criminal Application No.4616 of 2023 is disposed of.
2. Apprehending arrest in Crime no.347 of 2023 registered at Washi Police Station, Dist.Osmanabad on 30-11-2023 for offence under Sections 307, 324, 504, 506 r.w 34 of the Indian Penal Code (IPC), both the applicants are praying for grant of anticipatory bail.
3. In support of relief, learned Senior Counsel Shri R.N.Dhorde would submit that alleged occurrence is of 27-11-2023 but FIR is registered on 30-11-2023 i.e. after almost four days and there is no plausible explanation for the inordinate delay leaving room to presume false implication in the backdrop of existing political rivalry.

He pointed out that implication is also false for the simple reason that there is electronic evidence by way of CCTV footage showing informant to be hale and hearty upto 11:23 p.m. and therefore, contents of the FIR regarding assault to be made on him at around 08:00 p.m. is apparently false one. He invited attention of the Court to the photographs annexed alongwith the application from page nos. 42 to 50 and he also invited attention of the Court to the clock timings appearing on each of the footages. He further pointed out that there is dispute over execution of some civil work and that also probably triggered some enmity.

4. He further submitted that there are cross complaints and informant in this case is already a beneficiary of anticipatory bail order. However, according to him, similar relief is refused to present applicants only on the ground that electronic evidence is not supported by certificate under Section 65B of the Indian Evidence Act. Concluding his arguments, he submits that considering the implication in the backdrop of political rivalry, valuable right of applicants deserves to be protected and that applicants are ready to abide all and any conditions imposed by this Court.

5. While opposing prayers for anticipatory bail, learned APP

would submit that applicants, by placing order in favour of informant, have admitted very occurrence of assault. As regards to the merits of the application is concerned, he would submit that there are accusations in the FIR about assault being made by iron rod and spade handle. Applicants are named in the FIR. That their roles are well defined. That informant had suffered head injury which is grievous and on vital part. According to him, there are three eye witnesses. That statement of informant was recorded while he was undergoing treatment and precisely this is the reason why FIR of occurrence dated 27-11-2023 is reported on 30-11-2023. He further pointed out that informant is still undergoing treatment. Investigation is underway and recovery is yet to be caused and so he prays to reject the application.

6. Learned Counsel for informant also through Additional Public Prosecutor tried to submit that there are several cases against applicants and they being history-sheeters and having flouted bail conditions, they are likely to misuse the liberty, if granted, now also.

7. In the light of above submissions, the application, annexures as well as police papers placed on record by learned APP are visited. It seems that as per the FIR, occurrence has taken place on 27-11-2023

while informant was returning after attending a marriage ceremony on motorcycle, he had halted his vehicle as work by use of JCB was going on, present applicants Dnyaneshwar and Shrirang along with with one Ashok (original accused no.3) approached him and according to informant, on previous political rivalry, seeing him alone, he was initially questioned by applicant no.1 Dnyaneshwar saying that “he is too keen in politics and why he is interested in works carried out by him” and thereafter it is alleged that Dnyaneshwar assaulted informant by iron rod on head after which he collapsed. Thereafter applicant no.2 Shrirang and Ashok (original accused no.3) beat him with spade handle, abused him and issued threats to kill. It is alleged that saying that he is alive, applicant no.1 Dnyaneshwar again said that he should be killed and hit rod in the head causing him bleeding injuries after which he fell unconscious and was taken by Uddhav Vasant Limkar and Tatyasaheb Pralhad Limkar initially to Civil Hospital Vashi and thereafter, he was referred to Osmababad, but at the instance of his relatives, he was taken to private hospital at Barshi .

8. Learned APP invited attention of the Court to the medical certificate, which shows injury to left frontal part on head by hard and blunt object and injury to be fresh and grievous one. Statement

is made across the bar by learned APP that informant is still undergoing treatment and that recovery is yet to be caused at the instance of applicants.

9. Though apparently, there is material itself suggesting political rivalry and discontent between the parties on account of some civil work, there is alleged use of iron rod and spade handle. Assault is targeted on head and other parts of the body. There is material indicating threats to do away with the informant. Therefore, though there are some footages showing informant to be able bodied and hale and hearty, it is contentious issue and the evidence to that extent cannot be appreciated at this stage. Roles are defined, offence for which applicants are booked is of attempt to murder and other penal sections. Taking the same into consideration, this Court does not deem it to be a fit case to grant relief, more particularly, when investigation is incomplete and recovery is yet to be caused. Accordingly, following order is passed :

ORDER

Anticipatory Bail Application No.2152 of 2023 is
hereby rejected.

(ABHAY S. WAGHWASE)
JUDGE