



and her family members. Once, the order is in favour of a party, no one will expect that the family to physically hurt the other side. In the present proceedings, the SDO's order was in favour of the applicants, therefore, there is no question of the applicants attacking the first informant and her family members. The event as mentioned in the complaint is to be investigated. Merely, on statement being made by the first informant that the police should not have acted and without verifying should not have lodged the FIR. The allegations as made in the complaint needs to be investigated and the same can be done only at the trial. The custody of the present applicants is not at all necessary.

4. The learned APP submits that the first informant and her family members after hit by the present applicants and the other accused by bamboo stick, gupti (sharp object) hand and fist, were taken to the hospital. The informant (Nanda) was in hospital for 20 days. The other family members of the informant were in hospital for roughly 7 days. The medical certificates to that effect has been collected by the investigating officer. Apart from that there are three other eye witnesses, who have given their statements. The weapons are yet to be recovered which have been used in the present crime. The custody of the present applicants would be necessary along with other accused persons as the other accused persons though had filed an anticipatory bail application before the Sessions Court, the same was rejected.

5. The informant and her family members were frightened after they were beaten so badly by the applicants and the other accused persons. They were not even ready to lodge police complaint against the applicants and other accused persons. The custody of the present applicants would be necessary along with other accused persons in order to complete the investigation.

6. I have heard the counsel for both the sides and with their assistance, I have gone through the documents on record including the FIR so also the medical certificates and photographs of the victims. So also, the statements of three independent eye witnesses were shown to me. In the FIR there has been specific allegations made against all the accused persons and the whole incident narrated. The role played by the present applicants has been specifically mentioned. The daughter-in-law of the first informant was thrown in the well by applicant nos. 2 and 3. The applicant nos. 2 and 3 are females, who belong to the family of the accused persons. The first informant was badly hit by wooden stick by applicant no. 1 on her face. The photograph of her was shown to me so also, her medical certificate which shows that she was injured and had grievous injuries on her head and face. The other members of the first informant's family were hit on the head. There was bleeding from their head which can be seen from the photographs and the medical certificates.

7. As per the medical certificates the first informant (Nanda) was in hospital for 20 days and the other members of her family were also in hospital for 7 days. Apart from the first informant and her family members, there are three independent eye witnesses, whose statements were recorded. The said statements also mentions about the offence committed by the accused persons.

8. As far as the medical certificate of applicant no.1 of India Security Press Hospital, Nashik, produced by the counsel for applicant no.1 is concerned, on bare perusal, it seems to be a certificate which mentions about the medicines being suggested to the patient. One of which is a medicine for diabetic. This certificate, according to me, does not help the applicant no. 1 to show that he was also admitted in some hospital for treatment.

9. Taking into consideration the over all contents of the FIR, medical certificate and the photographs shown to me, the physical presence of the applicants for interrogation is necessary for completion of investigation. Moreover, there is a possibility that the applicants pressurizing and threatening the witnesses and likely to tamper with evidence, if they are released on pre-arrest bail.

10. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar C.K. and another*<sup>1</sup> in paragraph 12 has held as under :-

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<sup>1</sup> 2022 SCC Online SC 1529

“12..... In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

(Emphasis supplied)

11. A similar view has been taken by the Supreme Court in the case of *the C.B.I. vs. Anil Sharma*<sup>2</sup>, in paragraph 4 which reads as under:-

“4. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring would not conduct themselves as offenders.”

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2 AIR OnLine 1997 SC 797

(Emphasis supplied)

12. Taking into consideration the contents of FIR, the documents on record and considering the law laid down by the Supreme Court in above judgments, according to me, no case is made out to grant protection to the present applicants. **The anticipatory bail application stands rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)