

Order below Exh.1
in Cri. Bail Application No.44/2022.
(Harichandra Tulshiram Bharmal and other Vs State)

This is a bail application moved by the applicant-accused Harichandra Tulshiram Bharmal and Satyabhama Harichandra Bharmal under section 438 of the Criminal Procedure Code for grant of anticipatory bail in connection with CR No.5/2022 registered with Sinnar Police Station for the offence under section 326,323,504,506 r.w.s.34 of the Indian Penal Code (hereinafter referred to as "IPC" for short), in the event of arrest in connection with above referred crime.

2. It is stated in the application that, the alleged incident of assault took place on 25.12.2021. The injured Dipak @ Guddya Vsant Khetade was allegedly assaulted by wooden stick on his head by accused No.1. He is son of first informant. It is further stated that the injured is discharged from the hospital. A counter case is also registered by the nice of this applicant-accused against the injured and his friend for the offence under section 354,504,506 r.w.s.34 of IPC and section 8 and 12 of the Protection of Children From Sexual Offences Act, 2012. Therefore, prayed for anticipatory bail.

3. I.O. has opposed the application. Heard both the parties.

4. The learned counsel for applicant-accused Shri. Y.D. Lakariya has submitted that it is false case lodged against the applicant-accused as the incident is false. There is delay of 10 days in lodging the FIR. The injured as shown hospitalized, however, he is discharged from the hospital. There is necessity of the custodial interrogation of the present applicant-accused. Therefore, he prayed to allow the anticipatory bail application.

5. On the other hand, learned APP Shri. Suryavanshi submitted that there is reason for delay in lodging the FIR as the injured has initially taken the treatment at his house itself. However, as his health became deteriorated and serious and therefore, ultimately he was admitted in private hospital and the operation to his brain was performed and therefore, police have applied section 326 of IPC to the present crime as the injured was initially unable to talk and now he is facing problem to talk as he sustained grievous injury to his brain. There is involvement of the present applicant-accused in present crime. Hence, prayed application may be rejected.

6. I.O. is present and produced the investigation papers. I have carefully gone through the same. Medical Papers supports the version of the prosecution. The injured was operated for his brain and therefore, the matter is serious one. So far as counter case is concerned, it is lodged by the nice of applicants-accused. However, there is delay of 10 days in lodging the FIR. Therefore, implication of present injured and his friend in false case after due deliberation cannot be ruled out and therefore, the same cannot be considered as at this juncture while hearing of anticipatory bail application of the present applicants-accused. Hence, the present application is devoid of merit. The sufficient role of applicants-accused is made out in the FIR and both the applicants-accused were present at the time of incident. Injured has suffered brain injury at has affected his capacity to talk normally. Therefore, considering the critical situation, application is devoid of merit. Hence, following order is passed.

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ORDER

- 1) Anticipatory Bail Application No.44/2022 is hereby rejected.
- 2) Inform the concerned police station accordingly.

Date-19.01.2022

(M. A. Shinde)
Additional Sessions Judge-8,
Nashik.