

907-908 -ABA 1568, 1569 of 2018

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION No. 1568 OF 2018

Bhimashankar @ Shankar Mallappa Mashale	...Applicant
Vs.	
The State of Maharashtra	...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION No. 1569 OF 2018**

Vaishali Nilesh Mashale	...Applicant
Vs.	
The State of Maharashtra	...Respondent

Mr. Jaydeep D. Mane for Applicant
Ms. Veera Shinde -APP in ABA 1568 of 2018
Mr. Y.Y. Dabke -APP in ABA 1569 of 2018
Mr. K.G. Ghadge, API, Akkalkot (North) Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.
DATE: AUGUST 7, 2018

P.C.

1. Heard. This is an application under section 438 of the Criminal

Procedure Code.

2. The Applicants herein are apprehending their arrest in Crime No. 167 of 2018 registered at Akkalkot (North) Police Station for offences punishable under section 302, 327, 323, 504, 427, 143, 147, 149 of the Indian Penal Code.

3. It is the case of the prosecution that on 22nd of April, 2018 Bajrang Harwalkar lodged a report at the police station alleging therein that there are intermittent quarrels between Mashale family and Harwalkar family on account of dispute over the agricultural land. A civil dispute is pending. That on 22nd April, 2018 at about 6.00 p.m. when the complainant was in his footwear shop, his father informed that Sham Mashale i.e. Complainant in Crime No. 168 of 2018 i.e. the present Applicant was abusing him. The Complainant had, therefore, proceeded to inquire with Sham Mashale and Shankar Mashale as to why his father is being abused. He had again abused the complainant. At that juncture, Sham and Shankar Mashale had mounted assault upon the

father of the Complainant. They had also assaulted the complainant. It is alleged that Vaishali, Applicant in ABA No. 1569 of 2018 has also participated in altercations and had assaulted his wife Reshma and his sister Ambika with fist and kick blows and they had abused. The father of the complainant viz. Appasaheb was feeling uneasy after the assault and, therefore, was taken to the hospital. He had succumbed to the injury. There are no external injuries except two abrasions on the left knee and the death was due to cardiac arrest, respiratory failure with myocardial infarction. Appasaheb Harwalkar was aged about 70 years' old at the time of incident. Prima facie opinion as regards cause of death would indicate that in all probabilities, it could be a natural death. Moreover, it is the case of cross complaint wherein Sham i.e. the son of Shankar Mashale i.e. present Applicant in ABA No. 1568 of 2018 had also lodged the report and on the basis of the said report, Crime No. 168 of 2018 was registered.

4. In view of the above mentioned facts, the Applicants deserve pre-

arrest bail.

5. The observations are restricted to application under section 438 of the Criminal Procedure Code and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial. Hence, the following order:

ORDER

- (i) Applications are allowed.
- (ii) In the event of arrest, the Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- each and one or more solvent sureties in the like amount.
- (iii) The Applicants shall report to the concerned police station as and when called.

The applications stand disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]