

HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2553 OF 2018

Pushpalata Govindrao Patil	... Applicant
Versus	
The State of Maharashtra	... Respondent

ANTICIPATORY BAIL APPLICATION NO. 372 OF 2019

Dharma @ Dharmaraj Shivdas Lokare	... Applicant
Versus	
The State of Maharashtra	... Respondent

Mr. Priyal G. Sarda, Advocate for the Applicant in ABA 2553/18.
Mr. Ritesh Thobde, Advocate for the Applicant in ABA 372/19
Mr. Prashant Jadhav, APP for the State/Respondent.
Mr. C.W. Wable, API, Fouzdar Chawdi Police Station, Solapur.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 8th July, 2019.

P. C. :-

1. The applicants in both these applications are seeking anticipatory bail in connection with CR No. 799/18 registered with Fouzdar Chawdi Police Station under Sections 326,324,143,147,148 and 149 of the IPC. Since both these applications arise out of the same FIR, they are being decided by this common order.
2. The FIR in this case is lodged by one Devidas Nimgal on 26th November 2018 in respect of an incident dated 16th November 2018. He has

mentioned in his FIR that at 5.15 p.m. he alongwith his friend Vinod Bhutale were present at their work place i.e. Lotus Wine Shop. The applicant Dharma in ABA No. 372/19, made a phone call and asked regarding his whereabouts. When the first informant told Dharma that he was at the wine shop, the applicant Dharma and others came there in a four wheeler vehicle. The present applicant Pushpalata Patil in ABA No. 2553/18 along with others alighted from the vehicle. The applicant Dharma asked Vinod Bhutale to vacate the house occupied by his sister. There was exchange of words. It is an allegation in the FIR that the applicant Pushpalata instigated others i.e. Akshay Lokare, Sonu @ Sanket Lokare, Vishal Takmoge and three others unknown. They as well as the applicant Dharma started assaulting Vinod Bhutale with wooden stick, knife and iron rod. When the first informant Devidas tried to interfere, he was assaulted on his back with iron rod and Sonu assaulted him with knife on his abdomen. He fell down blood started oozing from my abdomen. All the assailants went away. The first informant and his friend Vinod were admitted in civil hospital. Inspite of being a medico-legal case, no FIR was lodged by the police on that day.

3. Heard Mr. Sarda, the learned counsel for the applicant in ABA No. 2553/18 and Mr. Thobde, the leaned counsel for the applicant in ABA No. 372/19 as well as Mr. Jadhav, the learned APP for the State.

4. Mr. Sarda invited my attention to a non cognizance case registered

on the date of incident at the instance of applicant Dharma in which it was alleged that the first informant and his friend Vinod had abused and threatened Dharma. The applicant Pushpalata Patil, was named as witness there. Mr. Sarda and Mr. Thobde, pointed out that there is a delay of more than 10days in lodging the FIR and that the FIR is lodged as an afterthought. Both the counsel submitted that the applicants are falsely implicated.

5. As against this, the learned APP submitted that the injured Devidas had suffered a stab injury on his abdomen and he was in hospital for a few days. There was one blunt trauma mentioned in the injury certificate of Devidas. The other injured Vinod had suffered on contusion and one abrasion. These are minor injuries. The learned APP also relied on the statement of Vinod Bhutale, who supported the first informant's version.

6. I have considered the submissions made by both the parties. On inquiries as to why the FIR was lodged after 10 days, the learned APP pointed out the statement of injured Devidas, recorded on 16th November 2018 itself. In that statement, he had mentioned that since he was having severe pain, he could not give any statement and he would give his statement afterwards. There is no endorsement on his statement to show that Devidas is not in a position to give any statement. Though it was a medico-legal case, police have not taken any step to lodge the FIR

immediately. The statement of Vinod Bhutale was recorded on 27th November 2019. He had suffered absolutely minor injuries. Therefore, there was no reason as to why his statement could not be recorded immediately. Thus, it can clearly be seen that the FIR was registered at belated stage. There is a strong possibility that the applicants are implicated falsely as an afterthought. Therefore, applicants have made out a case for protection of anticipatory bail. Hence, the order:-

ORDER

- (i) In the event of their arrest in connection with C.R. No.799/18 registered with Fouzdar Chawdi Police Station under Sections 326,324,143,147,148 and 149 of the IPC , the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties each in the like amount.
- (ii) Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)