

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

ANTICIPATORY BAIL APPLICATION NO. 155 of 2020

Dhiraj Raju Bhosale

... Applicant

V/s.

The State of Maharashtra

... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 157 of 2020

Sachin Sambhaji Barathe alias

Dada Barathe

... Applicant

V/s.

The State of Maharashtra

... Respondent

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Aniket Nikam i/b Vivek Arote for the Applicant in both applications.

A. A. Takalkar, APP for the State/Respondent.

R. M. Lonkar, Aalandi Police Station present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 21st JANUARY, 2020.

P.C. :

The Applicants in both these applications are apprehending arrest in CR. No. 238/2019 registered with Aalandi Police Station, Pune for the offences under Sections 395, 452, 115, 120-b of the Indian Penal Code and Section 4(25) of the Arms Act.

2. The prosecution case is that on 31st July, 2019 some quarrel took place between Swapnil Bhosale and Complainant's son Bharat Jaid on account of receiving protection money from rickshaw driver. On 01st August, 2019 when the Complainant was alone at home at about 11.30 a.m., about 25-30 persons armed with weapons had unlawfully entered into the house of the Complainant by breaking the lock of the door and threatened the Complainant's son. One of them took away the cellphone and cash of Rs. 13,000/-. The Complainant had further stated that her son Bharat informed her the names of about 19 persons including the Applicant as the person to whom he had seen approaching towards his house with weapons.

3. The Applicants had preferred applications for anticipatory bail before the Sessions Court. The said applications were rejected on 26th August, 2019 and 19th October, 2019.

4. Learned Counsel for the Applicants submitted that false case has been registered against the Applicant. Admittedly, the Applicants had not assaulted the Complainant. Section 395 of the Indian Penal Code is not attracted in the present case. The

Complainant had not identified any person but disclosed the names in information provided by her son. It is further submitted that the police had registered the First Information Report vide CR. No. 238 of 2019 against the Complainant's son. Police have lodged the First Information Report against Bharat Jaid and other persons alleging that about 25-30 people were armed with weapons and created terror in the locality. The Complainant's son Bharat and others are impleaded as Accused in the said First Information Report, recorded on 02nd August, 2019.

5. Learned APP submitted that the Applicant has been named in the First Information Report. He was amongst the mob of about 25-30 people who were armed with weapons. The Complainant was alone at home when threatened by the Accused. Custodial interrogation of the Applicant is necessary. The investigation in CR. No. 239/2019 is in progress. The Accused in the present case are yet to be arrested. The statement of Bharat has not been recorded in the present case as he is not available.

6. I have perused the First Information Report. Admittedly,

the dispute appears to be between Swapnil Bhosale and Complainant's son Bharat. It is alleged that the group of about 25-30 people had barged into house of the Complainant. The Applicant was allegedly shown to be present at the scene of offence along with other Accused. He has not been attributed any specific role of attack except threat. Role of taking away cellphone and cash is also not attributed to him. The Complainant proceeds with the fact that the persons barged into house were not unknown to her. Subsequently, her son Bharat had disclosed the names to the Complainant and therefore the names of Accused including the Applicant were mentioned in the First Information Report. It does not appear that there was intention to commit robbery. The role of taking away the cellphone and cash is attributed to another Accused. The First Information Report vide CR. No. 239 of 2019 was lodged by the police in which, it is mentioned that the Complaint's son was also amongst them and he ran away from the scene of offence. Considering these circumstances, it is not necessary to subject the Applicants to police custody and they can be directed to co-operate with the investigation by attending the Investigating Officer.

8. Hence, I pass the following order:

ORDER

- i) Anticipatory Bail Application Nos. 155 of 2020 & 157 of 2020 are allowed.
- ii) In the event of arrest of the Applicant, in connection with CR. No. 238/2019 registered with Aalandi Police Station, Pune, the Applicants be released on bail on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- iii) The applicants shall report Aalandi Police Station once on 27, 28 & 29th January, 2020 between 11 a.m. and 1 p.m. as and when called for till filing for charge-sheet.
- iv) The Applications stand disposed of.

(PRAKASH D. NAIK, J.)