

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 173 OF 2020

Chetan Vinayak Keche	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
INTERIM APPLICATION NO. 1 OF 2020
IN**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 173 OF 2020	
Dattatray Tanaji Jadhav	...Intervenor

IN THE MATTER BETWEEN:-

Chetan Vinayak Keche	...Applicant
Versus	
The State of Maharashtra	...Respondent

WITH CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 174 OF 2020	
Baban Ghaininath Keche	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
INTERIM APPLICATION NO. 1 OF 2020
IN**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 174 OF 2020	
Dattatray Tanaji Jadhav	...Intervenor

IN THE MATTER BETWEEN:-

Baban Ghaininath Keche	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. P. B. Shah i/b. Kavyal P. Shah, Advocate for the Applicant in both Anticipatory Bail Applications.

Mr. Abhijeet Desai a/w. Mr. Amol Jagtap i/b. Desai Legal for the Intervenor in both Anticipatory Bail Applications.

Smt. A. A. Takalkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 7th February, 2020

PC :

1. The applicants in both these applications are apprehending arrest in C.R. No. 672 of 2019, registered with Tembhurni Police Station, District- Solapur, for the offences punishable under Sections 324, 323, 326, 504, 506, 452, 143, 147, 148, and 149 of Indian Penal Code, 1860 ('IPC' for short). The First Information Report ('FIR' for short) was lodged on 12th December, 2019 by Dattatray Tanaji Jadhav.

2. It is alleged that on 11th December, 2019 at about 12.15 p.m. the complainant, his wife, father and mother were levelling their agricultural land. Accused No. 1-Baban Keche (applicant), Vinayak Keche and Chetan Keche (applicant) approached complainant and told him to level the land, as it would create hurdle for entry and exist of accused. At that time, Baban Keche assaulted the complainant by iron rod on his back and Vinayak Keche assaulted complainant by iron rod on his thigh. Dattatray Vinayak Keche assaulted by axe from the blunt side. Since wife of the complainant came forward to guard complainant, she sustained injury by back side of axe, on account of blow given by Dattatray Keche. She was bleeding. Rohit and Chetan Keche assaulted the complainant by stick on his legs. While the complainant and his wife were proceeding, his cousin Keshav Jadhav was waiting near the house. He enquired

with them as to where they are going. They informed that they are going to Tembhurni Police Station to lodge the complaint. Both of them visited Tembhurni Police Station. They were referred to health centre for treatment. They were followed by cousin Keshav Jadhav and wife who visited hospital. Keshav Jadhav told the complainant that, after he left, Baban Keche (applicant), Vinayak Keche , Dattatray Keche, Rohit Keche and Chetan Keche (applicant) and Gopinath Keche came near his house. Mother of Keshav Jadhav closed the door. By pushing Keshav and his wife inside the house she told them to lock the door from inside. The wife of Keshav was pregnant. They closed the door. All the accused kicked the door. Lock was opened. Accused entered into the house and threatened Keshav Jadhav and his wife. They kicked on abdomen of wife of Keshav. All of them assaulted Keshav Jadhav by stick, rod. Hence, both of them went to police station to lodge complaint.

3. The applicants preferred an application for Anticipatory Bail before the Sessions Court. The applications were rejected.

4. Learned Advocate for the applicants submitted that, the applicants are falsely implicated in this case. There was quarrel between both parties, on 11th December, 2019, wherein both the sides had physically assaulted each other and the accused had

suffered injuries. Vinayak Keche has registered FIR against the complainant under Sections 324, 323, 326, 504, 506, 452, 143, 147, 148, and 149 vide C.R. No. 675 of 2019.

5. In support of the application preferred by Chetan Vinayak Keche, it is submitted that he is a student of Agricultural Diploma in Late Shahajirao Patil Agricultural and Polytechnic College, Taluka- Indapur, District – Pune. On 11th December, 2019, he was attending college. The college time is 10.00 a.m. to 4.00 p.m. The applicant relied on the attendance register in support of submission that on the day of incident, at the relevant time, the applicant was in college. The applicant has filed additional affidavit stating that, the principal of Late Shahajirao Patil Agricultural and Polytechnic College, Indapur, District- Pune has issued letter dated 25th October, 2020 certifying that, he was in college at the time of incident and left the college at around 1.50 p.m. The Copy of letter dated 25th January, 2020 has been annexed to the additional affidavit. It is submitted that, except FIR No. 561 of 2017 there are no other criminal proceedings against the applicant. The applicant was granted Anticipatory Bail by this Court vide Order dated 12th December, 2017. It is submitted that, the Medical Certificate filed with Intervention Application reflects that no injuries were caused to wife of complainant and sister-in-law of complainant. The

applicant is young boy. He need not be subjected to custodial interrogation.

6. In support of Anticipatory Bail Application No. 174 of 2020 preferred by Baban Keche, learned counsel submitted that the applicant is a senior citizen. He was not present at the place of incident. At the relevant time he was in Akluj at 11.30 a.m. in bus, travelling to Tembhurni. The said fact is fortified by CCTV footage. The applicant had contested election. He is an active social worker. He is suffering from ailment. He is undergoing treatment. At the time of incident i.e. 11th December, 2019 at 12.15 p.m. to 12.30 p.m. the applicant was not present at the place of incident. The applicant was at Akluj Bus Stand and thereafter he came to Tembhurni Village. He learnt about incident from his brother. The presence of the applicant at Akluj Bus Stand is recorded in CCTV camera. The applicant need not be subjected to custodial interrogation. The applicant also filed additional affidavit stating that his presence can be seen at Akluj Bus Stand in CCTV footage. He entered the S.T. bus, which dropped him at Tembhurni Bus Stand. He is seen in CCTV footage. The distance between Akluj Bus Stand and Tembhurni Bus Stand is 29.7 k.m. He has annexed the Google Map about route from Akluj Bus Stand to Tembhurni Bus stand. The travelling period is of one hour by bus. It is not possible for him to remain present at the spot of incident. He

reached Tembhorni Bus Stand at 12.35 p.m. His face cannot be seen by CCTV footage at Tembhorni Bus Stand. But it can be identified by redish plastic bag in his hand. He can be seen living Tembhorni Bus Stand at 12.30 p.m. in CCTV footage. He was informed about the incident. He walked down from Tembhorni Bus Stand to Tembhorni Police Station. The only public transport is available to reach the spot from Akluj by MSRTC bus. The applicant is acquitted in the previous cases.

7. It is submitted that, on account of rivalry, both the applicants are falsely implicated in this case. There is delay in lodging FIR. The police ought to have verified the ground of alibi of applicants.

8. Learned APP submitted that the defence of the applicants, in the form of alibi, has to be considered at the stage of trial. The applicants are attributed specific overtact. The applicant Chetan Keche was armed with stick. The applicant Baban Keche armed with iron rod. Chetan Keche had assaulted the complainant and Keshav Jadhav. Baban Keche had also participated in assault. According to Baban Keche, he was at Akluj at 11.28 p.m. The incident occurred at 12.15 p.m. He is habitual offender. Accepting that, the said applicant was at Akluj, his presence at the place of

incident cannot be ruled out. On the basis of attendance register, it cannot be inferred that the applicant Chetan Keche was in the college all the time. The letter issued by the Principal cannot be accepted at this stage as he would not be in a position to monitor that the applicant was all the time in the college. The statement of the witnesses cannot be brushed aside.

9. Learned Advocate for the intervenor submitted that the offence is of serious nature. Specific role has been attributed to both the applicants. The intervenor is a farmer. The cousin of intervenor namely Keshav Jadhav resides in the neighbouring farm of the intervenor. The family of the complainant was brutally assaulted by the accused. The wife and brother of the complainant were assaulted by deadly weapons. Wife of Keshav Jadhav who is pregnant, was also assaulted. The weapons such as iron rod, axe, wooden log were used. The photographs shows the brutal assault upon the victims. There is danger to the life of the victims.

10. I have perused the FIR, the documents placed on record by both the sides. The FIR was lodged on 12th December, 2019. The first informant and other witnesses attribute specific overtact to both the applicants. They were armed with stick and iron rod. The ground of alibi cannot be accepted as gospel truth at this stage. The injured

had sustained serious injuries. The presence of the applicant at the time of incident is established and it cannot be ruled out on the ground agitated by the applicants. Cross FIR was lodged by Vinayak against the Keshav, Dattu, Jitendra, Anna and Walekar. In the FIR, there is specific accusation against the applicants. The evidence of the eye witnesses cannot be discarded at this stage. On 11th December, 2019 at 12.15 p.m. The applicants assaulted the complainant and other witnesses with weapons. The witnesses were injured. There is prima-facie involvement of the applicants. The complainant has narrated specific role of each accused. Investigation is in progress. Weapons to be recovered. Cases were registered against the accused in the past. Assuming that the applicant Baban Kechhe was at Akluj Bus Stand, his presence at the scene of offence at 12.15 to 12.30 cannot be ruled out. The version of the witnesses who were injured cannot be termed as false. The learned Sessions Judge while rejecting the applications, had given cogent reasons. In view of nature of accusation and the evidence collected during the investigation, no case for grant of Anticipatory Bail is made out. Hence, both the applications deserves to be rejected.

11. Hence, I pass the following order:

ORDER

- i) Anticipatory Bail Application Nos. 173 of 2020 and 174 of 2020 stand rejected and disposed of. Interim applications stand disposed of.

(PRAKASH D. NAIK, J.)