

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

ANTICIPATORY BAIL APPLICATION NO. 1130 OF 2021

1. Mansi Sunil Kagda
2. Kajal Subhash Bidlan @ Kagda
3. Vicky Jagdish Kagda
4. Rohitkumar Anil Kumar ... Applicants

Versus

The State of Maharashtra & Anr. ... Respondents

**ALONG WITH
ANTICIPATORY BAIL APPLICATION NO. 1162 OF 2021**

1. Sunil Kumar Jagdish Kagda
2. Sonu Balasingh Chandaliya ... Applicants

Versus

The State of Maharashtra & Anr. ... Respondents

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Mr. Ujjwal Gandhi, Advocate for the Applicants.

Mr. Y. M. Nakhwa, APP for the Respondent – State in ABA No. 1130 of 2021.

Mr. A. R. Kapadnis, APP for the Respondent – State in ABA No. 1162 of 2021.

Mr. Sunil R. Malgavi, MIDC, Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 3rd MAY, 2021

PER COURT:

1. The applicants are apprehending arrest in connection with C.R. No. 152 of 2021 registered with MIDC Police Station,

Mumbai, for offences under Sections 326, 354, 504, 323, 143, 144, 147, 148, 149, of Indian Penal Code (for short “IPC”). The First Information Report (for short ‘FIR’) was lodged by Smt. Poonam Chandaliya on 31st March, 2021.

2. The case of the prosecution is that on 29th March, 2021 at about 5.30 p.m. while the complainant was at home, she noticed that, Sunil Kadga was abusing and assaulting her husband below the building. The complainant went to the place of incident and tried to intervene. She is pregnant lady. Sunil gave kick blow on her abdomen. He also molested her. She was pushed. As a result of which she fell down. The relatives of the complainant Akash Chandaliya and Hawa Singh came to the spot to intervene. Sonu Chandaliya assaulted Akash Singh and Hawa Singh by iron rod. They sustained injuries. Mansi Kagda and Kajal Kagda came to the spot. They alongwith Rohit participated in assault by fist blows.

3. Learned advocate for the applicant submitted that the FIR has been registered on account of enmity between both the families. The opponents are relatives of the applicant. FIR was registered at the instance of Mansi Kagda on 30th March, 2021 vide C.R. No. 150 of 2021 for offences under Sections 143, 144, 147, 148, 149, 354, 324, 509, 323, 427 of IPC. It is submitted that Mansi has

sustained injury and she was hospitalized. The FIR was lodged by Mansi which is first in point of time. The FIR against the applicants was lodged belatedly. The allegations are concocted. There was no preplanned to attack upon the opponents at the instance of the applicants. Vickey Kadga was not attributed role in the FIR. Mansi Kagda had sustained injury which is evident from the injury certificate annexed to the application. N.C. complaints were lodged by Sunil Kadga against the husband of complainant. The copies of the complaints are annexed to this application. Custodial interrogation of the applicants is not necessary.

4. Learned APP submitted that the overt act is attributed to the applicants. Sunil Kadga had assaulted complainant and molested her. Sonu Chandaliya had assaulted Akash and Hawa Singh with iron rod. Akash had sustained serious injuries. He had to undergo 12 stitches for injury. Hawa Singh sustained mildly displaced fracture involving spinous process. Complainant was admitted in the hospital. She is pregnant lady. She is at advance stage of pregnancy. There are 5 cases registered against the Sonu Chandaliya and one case is registered against Sunil Kagda. Sonu was externed in 2018.

5. On perusal of the documents on record and the investigation papers it is apparent that both the applicants in

Anticipatory Bail Application No. 1162 of 2021 were attributed specific role. The witnesses have suffered injuries. The statement of Akash was recorded in which role of assault has been attributed to Vicky Kagda. Although cross cases are registered and that Mansi had also sustained some injuries, role attributed to some of the applicants cannot be brushed aside. Mansi, Kajal and Rohitkumar are not attributed any specific overt act. Mansi had admittedly sustained some injuries. Hence, relief under Section 438 can be granted to Mansi Sunil Kagda, Kajal Subhash Bidlan @ Kagda and Rohitkumar. Hence, I pass the following order:

ORDER

(i) Anticipatory Bail Application No. 1162 of 2021 is rejected and disposed of accordingly.

(ii) Anticipatory Bail Application No. 1130 of 2021 is partly allowed.

(iii) Application of Vicky Kagda is rejected.

(iv) In the event of arrest of the applicants Mansi Sunil Kagda, Kajal Subhash Bidlan @ Kagda and Rohitkumar Anil Kumar, in connection with in C.R. No. 152 of 2021 registered with MIDC Police Station, Mumbai, the said applicants be released on bail on furnishing P. R. Bond in the sum of Rs.20,000/- each with one or more sureties in the like amount;

(v) The applicants Mansi Sunil Kagda, Kajal Subhash Bidlan @ Kagda and Rohitkumar Anil Kumar shall appear before the investigating officer on 10th 11th & 12th May, 2021 between 11.00 a.m. to 1.00 p.m. and thereafter as and when called for till filing of charge-sheet.

(vi) Anticipatory Bail Applications are disposed of accordingly.

(PRAKASH D. NAIK, J.)