

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1000 OF 2020

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|----|---|---------------|
| 1. | Shri. Balu @ Naresh Khanderao
Awari Alias Balu | |
| 2. | Shri. Mangesh Bhaskar Shejwal | |
| 3. | Viki Devram Govardhan Alias Vikram | |
| 4. | Ganesh Sakharam Musale | ...Applicants |
| | V/S. | |
| | The State of Maharashtra | ...Respondent |

Mr. Ajinkya J. Jaibhave, Advocate for Applicants.
Smt. J. S. Lohokare, APP for State / Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATED : 12th FEBRUARY, 2021.**

P.C.

1. The Applicants are seeking Anticipatory Bail in connection with C.R. No.102 of 2020 dated 21st September 2020, registered at Vadivhare Police Station, District Nashik, under Section 141, 143, 147, 149, 323, 324, 341, 3, 395, 427, 504, 506 read with 34 of the Indian Penal Code.

2. Heard Mr. Ajinkya J. Jaibhave, learned Counsel for the Applicants and Smt. J. S. Lohokare, learned APP for the State.

3. The F.I.R. is lodged by Suresh Nikam, who was a driver. He has a four wheeler which is used for carrying goods. On 20th September 2020, he got a job to transfer some goods from Fab Industries Pvt. Ltd. He went to their premises at Vadivhare. The goods were to be delivered to Telangana. He loaded the goods and started going to his destination. At about midnight, on the Mumbai – Agra Road, Near a Dhaba four 2-wheelers intercepted him. Total 8 persons got down. He was pulled out of the vehicle. He was assaulted with sticks, kicks and fist blows. His wind shield was broken in the assault. He suffered injuries on his right eye and back, etc. His cash amount of Rs.6,000/- was forcibly taken by them. In the meantime, Police Party came there and therefore, he could be saved. The first informant gave names of 5 Accused and 3 unknown persons. He has stated that they were workers of Fab Industries Pvt. Ltd. and they were protesting out side the company's gate. On this basis the F.I.R. is lodged.

4. The learned Counsel for the Applicants submitted that an agitation was going on regarding non-payment of minimum wages by the company, and therefore, the Applicants are falsely implicated. They were employees of the Fab Industries Pvt. Ltd. Getting angry with their agitation, the management has used the first informant and this false incident is created against the accused. He submitted that no such incident had taken place and the Applicants are falsely implicated.

5. Learned APP opposed this Application. She relied on the spot Panchanama carried out showing the damage caused to the vehicle. She also submitted that the co-accused who was arrested, has named Applicant No.1. He had taken Rs.4,000/- from the amount of Rs.6,000/-. He submitted that robbery was committed on highway in the mid-night therefore, it is a serious degree of offence mentioned under Section 392. It has taken place on the highway after sunset. She submitted that their act

falls within the later part of Section 392. The punishment may extend to 14 years. She, therefore, opposed this Application. She also relied on the medical certificate of the injured.

6. I have considered this submission, the Medical Papers to show that the first informant had suffered injury to his eye and there was watering from that right eye. As rightly submitted by the learned APP, the incident had occurred on highway at mid-night, and therefore, it is a grave offence as mentioned under Section 392. Since there were more than five persons Section 395 also applies. The names of Applicant Nos.1 and 2 are mentioned in the F.I.R. Applicant No.1 had taken away Rs.4,000/- investigation.

7. In this view, of the matters, no case for Anticipatory Bail made is out against Applicant Nos.1 and 2. However, at this stage, the investigating agency does not have sufficient material against Applicant No.3 and 4 to show their involvement. Therefore, they can be protected by an Order of Anticipatory Bail. They can be directed to attend the concerned Police

Station and to cooperate with the investigation.

8. Hence the following Order:

- (i) In the event of their arrest in connection with C.R. No.102 of 2020, registered at Vadivhare Police Station, District Nashik, the Applicant Nos.3 and 4 are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (ii) Prayer for Anticipatory Bail of Applicant Nos.1 and 2 is rejected.
- (iii) Applicant No.3 and 4 shall attend the concerned Police Station as and when called and shall co-operate with the investigation including subjecting themselves for test identification parade.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)