

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.1526 OF 2021

Pravin @ Shubham S/o Sheshrao Gade

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.Narayan B. Narwade Advocate for Applicant.
Mr.A.M. Phule, A.P.P. for Respondent-State.

...

WITH

ANTICIPATORY BAIL APPLICATION NO.1556 OF 2021

- 1) Raju Piraji Shirsath,
- 2) Abhishek Baban Shirsath

...APPLICANTS

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.Satej S. Jadhav Advocate for Applicants.
Mr.V.M. Kagne, A.P.P. for Respondent-State.

...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE OF RESERVING ORDER : 18th JANUARY 2022

DATE OF PRONOUNCING ORDER : 4th MARCH 2022

ORDER :

1. Applicants in both the Applications are seeking anticipatory bail in cross-cases. Applicant in Anticipatory Bail Application (for short "ABA") No.1526 of 2021 is seeking anticipatory bail in connection with Crime No.732 of 2021 registered with Pathardi Police Station, Taluka-Pathardi, District-Ahmednagar for the offence punishable under Sections 307, 324, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code. Whereas, applicants in ABA No.1556 of 2021 are apprehending their arrest in connection with Crime No.745 of 2021 registered with same Police Station, for the offence punishable under Sections 307, 326, 324, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code and under Sections 3, 25 of the Arms Act.

2. Heard learned Advocate Mr. Narwade for the applicant and learned APP Mr. Phule for the respondent - State in ABA No.1526

of 2021, and learned Advocate Mr. Jadhav for the applicants and learned APP Mr. Kagne for the respondent - State in ABA No.1556 of 2021. In order to cut-short, it can be stated that both the sides have made submissions in support of their respective contentions.

3. In respect of applicant in ABA No.1526 of 2021, it is alleged in the First Information Report (for short "FIR") that after the informant was intercepted by the accused persons it was told that he would be killed by running over a vehicle. This applicant gave him fist blow on his forehead and other four persons had caught hold of him, made him to lie on the road, in which he sustained injuries and after he was made to lie on the road, the present applicant had tried to run over Brezza Car on the person of the informant, however he somehow got rescued himself. Then those persons went away with the said vehicle. Informant then states that thereafter when he was passing through the place in front of Urban Bank, again the present applicant along with other accused persons, intercepted his way by the said Brezza Car and again told that now he will not leave the informant. All the five accused thereafter started abusing and giving fists and kicks blows to him. One Kailas Shirsath tried to rescue the informant but he was assaulted by iron rod by one

Gokul Gade. Informant states that he had sustained injuries to his head and then he had taken treatment with Civil Hospital, Ahmednagar and thereafter he was referred to Vikhe Patil Hospital and then to Sai Asian Hospital. For the incident dated 23rd September 2021, the FIR has been lodged on 26th September 2021.

4. Thus, taking into consideration the contents of the FIR, it can be seen that it is belated. Statement was made by the learned Advocate for the applicant that Investigating Officer has collected the CCTV Footage from a nearby CCTV camera. Therefore, directions were given to learned APP to produce transcript, however, the police papers do not show the same. The police papers show medico legal certificate of the informant Sampat Piraji Shirsath and it is stated that he has received grievous injury to frontal scalp. Statements of witnesses have been recorded, however, from the FIR itself and the statements together, it can be seen that there is no allegation of use of weapon. It was then stated that the said Brezza Car was tried to be run over the informant but informant got himself rescued. Therefore, taking into consideration the fact that substantial part of the investigation appears to be over and co-accused appear to have been released on bail by this Court in Anticipatory Bail

Application No.1295 of 2021 on 29th November 2021, the application deserves to be granted.

5. Now as regards the applicants in ABA No.1556 of 2021 are concerned, this Court had granted interim protection to them by order dated 22nd December 2021, taking into consideration the role attributed to them in the FIR. The FIR contends that applicant No.1 was armed with wooden stick and he assaulted the informant on back. Applicant No.2 was armed with plastic pipe and the assault has caused simple injury to the informant. Note was also taken that the co-accused Baban Shirsath, Kailas Shirsath, Ashok Shirsath and Aniket Shirsath were granted pre-arrest bail by this Court earlier. The police papers show that informant Shubham Gade had sustained two injuries to head and they are grievous in nature. Here it is to be noted that the applicants in both the cases are not explaining the injury caused to the other person. Ultimately the prosecution will have to explain the same when there are cross cases. When accused from the cross-cases are released on anticipatory bail, the applicants also deserve the same treatment. Both the Applications, therefore, deserve to be allowed. Hence the following order is passed:-

ORDER

- i) Both the Applications are allowed.
- ii) In the event of arrest of the applicant – Pravin @ Shubham S/o Sheshrao Gade in Anticipatory Bail Application No.1526 of 2021 in connection with Crime No.732 of 2021 registered with Pathardi Police Station, Taluka-Pathardi, District-Ahmednagar for the offence punishable under Sections 307, 324, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code, he be released on bail on PR Bond of Rs.20,000/- (Rupees Twenty Thousand) with one or more sureties in the like amount.
- iii) The interim protection granted to the applicants in Anticipatory Bail Application No.1556 of 2021 by this Court by order dated 22nd December 2021 stands confirmed. It is clarified that in the event of arrest of applicant No.1 – Raju Piraji Shirsath and applicant No.2 – Abhishek Baban Shirsath in connection with Crime No.745 of 2021 registered with Pathardi Police Station, Taluka-Pathardi, District-Ahmednagar, for the offence punishable under Sections 307, 326, 324, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code and under Sections 3, 25 of the Arms Act, they be released on bail on PR Bond of Rs.20,000/-

(Rupees Twenty Thousand) each, with one or more sureties in the like amount, if already not released.

iv) The applicant in Anticipatory Bail Application No.1526 of 2021 to attend Pathardi Police Station on every Monday between 10.00 a.m. to 1.00 noon till filing of the charge-sheet and co-operate with the investigation.

v) The applicants in Anticipatory Bail Application No.1556 of 2021 to attend Pathardi Police Station on every Thursday between 2.00 p.m. to 5.00 p.m. till filing of the charge-sheet and co-operate with the investigation.

vi) The applicants in both the Applications shall not tamper with the evidence of the prosecution in any manner.

[SMT. VIBHA KANKANWADI , J.]