

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.237 OF 2022

Vaibhav Dyaneshwar Khalkar & Anr. ...Applicants
Vs.
The State of Maharashtra ... Respondent

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**WITH
INTERIM APPLICATION NO.336 OF 2022
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.237 OF 2022**

Savita Shridhar Khalkar ...Applicant
Vs.
The State of Maharashtra ... Respondent

**WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.235 OF 2022**

Dnyaneshwar Pandurang Khalkar ...Applicant
Vs.
The State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO.570 OF 2022
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.235 OF 2022**

Savita Shridhar Khalkar ...Applicant
Vs.
The State of Maharashtra ... Respondent

**WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.234 OF 2022**

Sopan Pandurang Khalkar & Anr. ...Applicants

V_S.

The State of Maharashtra

... Respondent

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Mr. Akshay Bankapur for the Applicants.

Mr. Y.Y. Dabke, APP for the Respondent-State.

Mr. Sachin Gite for the intervenor in IA/336/22.

Mr. Sanjay Shinde for the intervenor in IA/570/22

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CORAM : C.V. BHADANG, J.

DATE : 26 FEBRUARY 2022

P.C.

These applications seeking anticipatory bail, arise out of Crime No. 9 of 2022 registered with Nashik Road Police Station, Dist. Nashik under Section 326, 324, 504, 506, 143, 147, 148 and 149 of IPC.

2. The aforesaid crime is registered on the basis of the complaint dated 07.01.2022 lodged by Savita Khalkar. It appears that there is a dispute about the partition of the property between the members of Khalkar family. According to the first informant, on 06.01.2022 at about 1.30 p.m., the Applicants came in front of her house and started abusing her, asking and threatening her to withdraw the Court case. Further, according to the informant, all the Applicants started assaulting her with fist and kick blows. The sisters-in-law of the informant namely Sangeeta Khalkar and Shobha Khalkar tried to intervene, when they were also assaulted by the Applicants, who had formed an unlawful assembly. The specific allegation is that the Applicant Atmaram Khalkar

assaulted her by means of an iron rod on the forehead. Sangeeta Khalkar was assaulted by a stick near her right eye. One Rajendra Khalkar came there on hearing commotion, when he was also assaulted by fist and kick blows and they were threatened with life.

3. I have heard the learned counsel for the parties. Perused record.

4. It is submitted by the learned counsel for the Applicants that initially only offence under Section 324, 323 and 506 of IPC and for rioting was registered. However, the complainant applied for addition of offence under Section 307 of IPC. The Investigating Officer in his discretion has added Section 326 of IPC. Prior to the addition of Section 326 of IPC, the learned Magistrate had granted bail, which was cancelled upon addition of Section 326 of IPC. The Applicants thereafter, approached the learned Sessions Judge for anticipatory bail which came to be refused.

5. It is submitted that there is an enmity between the parties upon the partition of the property and civil proceedings are pending and that is the reason for false implication. It is submitted that the custodial interrogation of the Applicants is not necessary and there is a counter FIR lodged by Atmaram Khalkar,

who is one of the Applicants. On the basis of the FIR lodged by Atmaram Khalkar, an offence under Section 324 of IPC is registered against the complainant and others. He, therefore submitted that the Applicants be granted pre-arrest bail.

6. The learned APP assisted by the learned counsel for the informant has submitted that the offence is serious and looking to the nature of the injuries sustained by the informant, an offence under Section 307 of IPC is prima facie disclosed which requires investigation and custodial interrogation.

7. I have carefully considered the circumstances and the submissions made.

8. Admittedly, there is a property dispute between the parties in respect of which civil proceedings are pending. A bare perusal of the FIR prima facie shows that all the Applicants after forming an unlawful assembly had gone to the house of the first informant and the first informant along with her sisters-in-law Sangeeta Khalkar and Shobha Khalkar were assaulted. The injury report of the informant Savita Khalkar shows that she had suffered grievous injury. Her C.T. scan of the brain, shows “small linear undisplaced fracture of squamous part of right temporal bone”. Even the injury report of Rajendra Khalkar also shows fracture of

ulna left which is a grievous injury. Shobha Khalkar is also shown to have suffered three simple injuries.

9. The report filed by the Investigating Officer shows that there is a CCTV footage of the incident. The transcription of CCTV footage prima facie shows the presence and involvement of the Applicants.

10. Considering the over all circumstances, I do not find that a case for grant of pre-arrest bail is made out, as the proper investigation of the matter is paramount consideration.

11. In the result, all the Criminal Applications are rejected.

12. In view of the rejection of criminal anticipatory bail applications, nothing survives in the interim applications. Hence, the same are also disposed of.

C.V. BHADANG, J.