

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 133 OF 2022

Dnyandeo Krishna Lakade ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

INTERIM APPLICATION NO. 488 OF 2022

IN

ANTICIPATORY BAIL APPLICATION NO. 133 OF 2022

Balu Shivaji Lakade ...Intervener

In the matter between

Dyandeo Krishna Lakade ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 3014 OF 2021

Parubai Dnyandeo Lakade ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

INTERIM APPLICATION NO. 487 OF 2022

IN

ANTICIPATORY BAIL APPLICATION NO. 3014 OF 2021

Balu Shivaji Lakade ...Intervener

In the matter between

Parubai Dnyandeo Lakade ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Niranjan Mundargi, i/b Rupesh Zade, for the Applicant in
ABA/133/2022 & ABA/3014/2022.

Mr. Santosh Musale, for the Intervener in both IAs.

Mr. P. H. Gaikwad, APP for the State.

CORAM: N. J. JAMADAR, J.

SANTOSH
SUBHASH
KULKARNI

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DATED : 13th July, 2022

ORDER:-

1. These applications are preferred for pre-arrest bail in connection with CR No.283/2021, registered with Bhigwan Police Station, District Pune (Rural), for the offences punishable under Sections 302, 307, 324, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code, 1860 ("the Penal Code") .

2. Balu Lakade (the first informant) resides at Lakadewasti, Nirgude, Taluka Indiapur, District Pune, along with his family members including grandfather Maruti Ganpat Lakade (the deceased). The deceased had a dispute with his cousins Dnyandeo Lakade, the applicant ABA/133/2022, Rambhau Sonba Lakade and Bayaji Lakade in respect of the ancestral land admeasuring 88/80 feet. The said dispute was resolved by dividing the said land into parcels of 22/80 feet. The lands of the deceased and applicant Dnyandeo were open.

3. On 4th November, 2021, at about 4.00 pm., the first informant accompanied by deceased Maruti and Walmiki - the first informant's brother, had gone to the said land to clear the said land. At that time, the accused Narayan, Dattu, Amar, Tanmay and Shubham Lakade came thereat. They restrained the first informant and his associates from clearing the said

land. Requesting them not to rake up quarrel, the first informant, deceased and Walmiki came near the Maruti temple. Other persons from the Lakade clan also came thereat.

4. Altercations ensued over the exact location of the land which was allotted to the deceased. The co-accused called applicant Nayaran and Parubai, the applicant in ABA/3014/2021, Tanmay Lakade and Shubham Lakade at the said spot. Co-accused Narayan, Dattu and Amar were armed with iron rods. Co-accused Shubham and the applicants Dnyandeo and Parubai were also armed with sticks and stones. The co-accused and the applicant started to assault the deceased Maruti, the first informant and his brother Walmiki. Narayan Lakade and Dattu Lakade allegedly gave exhortation to the co-accused not to spare anybody. Thereupon co-accused Amar gave blow by means of iron rod on the head of Walmiki. Tanmay, Shubham, the applicants Parubai and Dnyandeo assaulted the first informant and his father Shivaji by means of sticks and stones. Deceased Maruti was also assaulted by means of iron rod, sticks and stones. The deceased and Walmiki sustained grievous injuries. Eventually, the deceased succumbed to those injuries.

5. Apprehending arrest Parubai, the applicant preferred Anticipatory Bail Application No.3014 of 2021. On 16th December, 2021, this Court was persuaded to grant interim pre-arrest bail having regard to the role attributed to the applicant.

6. Dnyandeo preferred Anticipatory Bail Application No.133 of 2022. By an order dated 20th January, 2022, this Court was persuaded to grant interim pre-arrest bail to Dnyandeo as well, as his wife Parubai was protected in ABA/3014/2021.

7. I have heard Mr. Mundargi, the learned Counsel for the applicant, Mr. Gaikwad, the learned APP for the State and Mr. Musale, the learned Counsel for the intervener – first informant at some length.

8. It was urged on behalf of the applicants that applicant Dnyandeo is 80 years old. Whereas Parubai is above 70 years of age. The applicants have been roped in on account of the dispute over the plots of land. General allegations have been made against the applicants. Investigation has reached at an advanced stage. The alleged weapons of offence have been seized at the instance of the co-accused. Thus, custodial interrogation of the applicants is not warranted. Since no specific role has been attributed against the applicants, having

regard to the age of the applicants, the applicants deserve to be enlarged on bail in the event of their arrest.

9. In opposition to this, the learned APP would urge that the applicants have been arraigned in grave offences of murder and attempt to commit murder. Specific allegations have been made against the applicants. A direction for the release of the applicants on bail, in the event of arrest, would seriously hamper the investigation. Therefore, the applicants do not deserve the exercise of the discretion.

10. Mr. Musale, the learned Counsel for the intervener – first informant, supplemented the submissions of the learned APP. It was urged that specific role of assault by means of sticks and stones has been attributed to the applicants.

11. I have perused the allegations in the First Information Report (FIR) and the material on record. The offences seem to have their genesis in the dispute over the proprietary and possessory title to the ancestral properties. It appears that on the day of occurrence family members from the side of the first informant and the accused party had an altercation over the said dispute. Allegedly, the co-accused and the applicant formed an unlawful assembly and in prosecution of the common object of the said assembly assaulted the first informant, his

father Shivaji, brother Walmiki, and grandfather Maruti, the deceased.

12. The first informant and the prosecution witnesses have endeavoured to attribute specific roles to the assailants. Co-accused Narayan, Dattu and Amar were allegedly armed with iron rod. The applicants Parubai and Dnyandeo were allegedly armed with sticks and stones. The applicants Parubai and Dnyandeo allegedly assaulted the first informant and his father Shivaji by means of sticks and stones. Whereas the role of assaulting the deceased Maruti by means of iron rod is attributed to co-accused Narayan and Dattu Lakade. Amar Lakade allegedly gave a blow by means of iron rod on the head of Walimiki, the brother of the first informant. It is the prosecution case that the deceased and Walmiki sustained grievous injuries.

13. *Prima facie*, it appears that the role attributed to Parubai and Dnyandeo is that of assaulting the first informant and his father Shivaji by means of sticks and stones, along with co-accused. In the FIR, there is also a general allegation that all the assailants assaulted the first informant, deceased Maruti and Walmiki by means of iron rod, sticks and stones. However, this general allegation is required to be appreciated in the

context of the specific role of assaulting the deceased and Walmiki by means of iron rod attributed to the co-accused. The applicants Parubai and Dnyandeo were allegedly armed with sticks and stones. The first informant does not attribute a specific weapon to the particular accused.

14. The aforesaid nature of the accusation is required to be appreciated in the context of the age of the applicants. It is asserted that the applicant Dnyandeo is unable to walk without assistance. At this juncture, these aspects cannot be delved into. Yet the facts that the applicants are of advanced age and the role attributed to them is not of assault upon the deceased and the Walmiki but that of assaulting the first informant and his father Shivaji, cannot be lost sight of. Since the co-accused have been arrested and the weapons of assault allegedly seized, at the instance of the arrested accused, Custodial interrogation of the applicants may not be warranted for effective investigation. Having regard to the age and peculiar situation in life of the applicants, in my view, the applicants deserve the exercise of discretion.

15. Hence, the following order:

: O R D E R :

- (i) The applications stand allowed.

(ii) The orders of interim pre-arrest bail dated 16th Deember, 2021, in ABA/3014/2021 and 20th January, 2022, in ABA/133/2022, are made absolute on the terms and conditions incorporated therein.

(iii) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

(iv) The applicants shall mark their presence at Bhigwan Police Station on the first Monday of every alternate month for the period of six months.

(v) The applicants shall regularly attend the proceedings before the jurisdictional Court.

In view of disposal of the Anticipatory Bail Applications, Interim Application No.488 of 2022 and Interim Application No.487 of 2022, stand disposed.

[N. J. JAMADAR, J.]