

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

**ANTICIPATORY BAIL APPLICATION NO. 2262 OF 2022
WITH
INTERIM APPLICATION NO. 2949 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO. 2262 OF 2022**

Dada Mahadev Randive	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.2452 OF 2022**

Dada Shivaji Randive	.. Applicant
Vs.	
The State of Maharashtra & Anr.	... Respondents

Mr. Prabhakar M. Jadhav for the applicant in ABA/2262/2022
 Mr. Rajaram V. Bansode, for Applicant in ABA/2452/2022
 Mr. Aniket Nikam i/b Mr. Amit Icham for Intervener in ABA/2262/2022
 Mr. P. H. Gaikwad, APP for the respondent - State
 Mr. Tanaji Pawar, P.S.I, Natepute Police Station, Solapur present.

CORAM : NITIN W. SAMBRE, J.

DATED : 26th September, 2022

P.C.:

1. Heard.
2. The applicants are seeking pre-arrest bail in crime no. 231 of 2022 registered with Natepute police station for the offence punishable under sections 307, 326, 324, 452, 323, 504, 506, 427,

143, 147, 148 & 149 of IPC and Sections 4 & 25 of the Arms Act.

3. The prosecution case is, on 31/07/2022, the applicants alongwith other co-accused found in unlawful assembling, indulge into an act of rioting, assault, attempt to murder etc.

4. It appears that the aforesaid incident of rioting is fall out of political differences / enmity between the group of complainant and applicants. Both the applicants are in active politics in the village as Dada Mahadev was Sarpanch whereas the Dada Shivaji is presently occupying the post of Upsarpanch.

5. While trying to make out a case for grant of bail, learned counsel for the applicants would urge that only reference to the applicants in the offence in question can be referred to an act which can be covered u/s 120B of IPC which is not invoked against the applicants.

6. It is claimed that even if the provision of section 149 of IPC which speaks of common object if considered, the fact remains that when the offence was allegedly committed, the applicants were not present on the spot.

7. The claim is raised that, the perusal of the FIR and investigation papers forfeit the aforesaid submissions.

8. Learned APP assisted by learned counsel for the complainant

would urge that there is enough evidence to connect the applicants in the offence in question as it is at the behest of the present applicant the offence was committed by other team members. Both of them invited attention of this Court to the statement made in the FIR as regards the role played by the applicants.

9. Learned APP would urge that both the applicants have not co-operated in the investigation and weapons used in the crime needs to be recovered. It is claimed that one of the co-accused who has used sword in the commission of crime has given a statement that the sword is handed over accused-Dada Shivaji. As such, it is claimed that the custodial interrogation of the applicants is necessary particularly having regard to the fact that there are criminal antecedents against Dada Mahadev.

10. I have appreciated the submissions.

11. It appears that the offence is committed into two parts. In the initial part of the offence which pertains to preparation, it appears that both the applicants have had discussions on the spot which was witnessed by the complainant. The applicant-Dada Mahadev has issued threats to the complainant.

12. In subsequent part which is about actually giving effect to

the offence in question in categorical terms it was referred to the presence of both the applicants on the spot of the incident that to with active role played in the offence.

13. In the aforesaid background, what can be noticed is the alleged role to the applicants could have been considered u/s 120B of the IPC (criminal conspiracy) which is not invoked by the prosecution against the applicants.

14. Even if an offence u/s 149 of IPC is invoked, the fact remains that the applicants at the relevant time were not part of unlawful assembly.

15. In this background, in my opinion case for confirmation of ad-interim protection is made out.

16. In the event of arrest of applicants crime no. 231 of 2022 registered with Natepute police station for the offence punishable under sections 307, 326, 324, 452, 323, 504, 506, 427, 143, 147, 148 & 149 of IPC and Sections 4 & 25 of the Arms Act., applicants be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- (each) with one or more sureties in the like amount.

17. The applicants shall attend the Investigating Officer from 10/10/2022 to 15/10/2022 between 10.00 a.m. to 12.00 noon and thereafter as and when directed.

18. The applicants shall neither tamper with evidence nor influence the witnesses in any way.

19. The applicants shall remain outside the jurisdiction of the concerned Police Station till the charge is framed.

20. It shall be open for the applicant-Dada Shivaji to enter the village only for the purpose of attending the meeting of village panchayat, he being Upsarpanch of village.

21. The anticipatory bail applications stand disposed of. In view of the disposal of the anticipatory bail application, the interim application also disposed of.

ANANT
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by ANANT
KRISHNA NAIK
Date: 2022.09.30
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(NITIN W. SAMBRE, J.)