

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 3024 OF 2021

Akash Shamrao Jadhav and Others ...Applicants
Versus
The State of Maharashtra ...Respondent

Mr. Sanjeev Kadam, i/b Siddharth Karpe for the applicants.
Mr. J. S. Lohkare, APP for the State-Respondent.

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CORAM: N. J. JAMADAR, J.

DATED : 20th JUNE, 2022

ORDER:-

1. Heard the learned Counsel for the applicants and the learned APP for the State.
2. The applicants have preferred this application for pre-arrest bail in connection with CR No.110 of 2010 registered with Waduj Police Station, Satara, for the offences punishable under Sections 395, 143, 147, 148, 149, 326, 323, 504, 506 and 427 of Indian Penal Code ("the Penal Code").
3. On the strength of the report lodged by Mr. Ganesh Godse (the first informant) on 18th August, 2010, a crime was registered against 16 named and 22 to 25 unknown persons, who allegedly formed an unlawful assembly and committed the offences of rioting, dacoity and causing grievous hurt by means of deadly

weapons, in prosecution of the common object of the said assembly. Post completion of investigation, it seems that, charge-sheet was lodged against 10 named accused. The applicants were shown absconding.

4. The learned Counsel for the applicants submits that the applicants are the residents of village Waduj. No effort was ever made to secure the presence of the applicants. Nor any notice was given. In fact, the first informant on 8th September, 2010 gave a supplementary statement exonerating the accused and asserting that some unknown persons had pelted stones at his medical store and he had lodged the report under misconception.

5. The learned APP, on the other hand, submitted that since non-bailable warrants have been issued against the applicants, the prayer for pre-arrest bail is not tenable.

6. By an interim order dated 16th December, 2021, this Court had granted interim pre-arrest bail to the applicants.

7. I have perused the report under section 173 of the Code of Criminal Procedure, 1973 ("the Code") and the documents annexed with it. Indeed the applicants were shown absconding. It is pertinent to note that the supplementary statement wherein the first informant stated that, unknown persons had

pelted stones at his medical store and the incident, as initially reported, had not occurred, forms part of the documents along with copy of the Affidavit sworn by the first informant. Almost 12 years period has elapsed since the date of occurrence. At this length of time, there does not seem any propriety in subjecting the applicants to custodial interrogation. The Ld. APP submits that the proclamation has not been issued against the applicants.

8. For the foregoing reasons, I am persuaded to confirm interim order of pre-arrest bail.

9. Hence, the following order.

: ORDER :

- (i) Application stands allowed.
- (ii) The interim order of pre-arrest bail dated on 16th December, 2021 stands confirmed on the terms and conditions incorporated therein.
- (iii) The applicants shall regularly attend the proceedings before the jurisdictional Court.

[N. J. JAMADAR, J.]