

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3165 OF 2022

1. Iresh @ Iranna Pandit Borale
 2. Pandit Mahadev Borale
 3. Bhagirathi Pandit Borale ...Applicants
 V/s.
 The State of Maharashtra ...Respondent.

WITH
INTERIM APPLICATION NO. 3894 OF 2022

Mr. Ritesh Thobde a/w. Mr. Kamran Shaikh for the Applicants.
 Mr.V.B. Konde-Deshmukh , APP for the Respondent/ State.
 Mr. Ajit Alange for the Complainant/Intervener in IA 3894 of 2022.

CORAM : N.R. BORKAR, J.
DATE : 23.11.2022.

P.C. :

1] This is an application under Section 438 of Code of Criminal Procedure for anticipatory bail.

2] The learned counsel for the applicants, on instructions, seeks leave to withdraw the present application *qua* the applicant No.1- Iresh @ Iranna Pandit Borale. Leave is granted. The Anticipatory Bail Application *qua* the applicant No.1 is dismissed as withdrawn.

3] The applicant No.2 Pandit Mahadev Borale and applicant No.3 Bhagirathi Pandit Borale are apprehending their arrest in C.R. No. 378 of 2022 registered at Valsang police station, Solapur for the offences punishable under Sections 307, 324, 504 and 506 read with 34 of the Indian Penal Code, 1860 (IPC).

4] According to the prosecution, on 6 September 2022, the applicant Nos.2 and 3 along with other co-accused assaulted the Laxman Borale (complainant/injured) by Koyta and Iron Rod and attempted to kill him.

5] I have heard the learned counsel appearing for the applicant and the learned APP for the respondent / State so also the learned counsel for the complainant/intervener.

6] The learned counsel for the applicants submits that in fact the applicant No.2 was assaulted in the alleged incident by the complainant and his family members and thus there is cross-FIR wherein they are accused *inter alia* for the offence punishable under Section 324 of the IPC. It is submitted that even otherwise there are no allegations of assault by applicant Nos.2 and 3 to injured Laxman. It is submitted that the applicant Nos.2 and 3 may thus be released on anticipatory bail.

7] On the other hand, the learned APP appearing for the State and learned counsel for the complainant/injured submit that applicant Nos.2 and 3 along with other co-accused assaulted the complainant/injured. They submit that considering the nature of offence, the applicant Nos.2 and 3 may not be released on anticipatory bail.

8] I have perused the First Information Report (FIR). According to the injured Laxman, the co-accused Iresh Borale assaulted him by koyta and co-accused Bhimashankar Borale assaulted him by

iron rod. As regards the applicant Nos.2 and 3, it is alleged that when the wife of the complainant tried to save him from assault, the present applicant Nos.2 and 3 assaulted her by stick. It appears from the FIR itself that the wife of complainant had not sustained any injury in the alleged assault. There appears to be cross-FIR. Considering these facts and circumstances, I am inclined to release the applicant Nos.2 and 3 on anticipatory bail. In the result the following order is passed.

ORDER

- A) Anticipatory Bail Application is allowed.
- B) In the event of arrest of applicant No.2 Pandit Mahadev Borale and applicant No.3 Bhagirathi Pandit Borale in C.R. No. 378 of 2022 registered at Valsang police station, Solapur for the offences punishable under Sections 307, 324, 504 and 506 read with 34 of the Indian Penal Code, 1860 (IPC), they shall be released on bail on executing P.R. Bond in the sum of Rs.25,000/- each with one or two sureties in the like amount.
- C) The applicants shall attend the concerned police station on 29 November 2022 and 30 November 2022 between 11:00 a.m. and 2:00 p.m. and thereafter as and when called by the Investigating Officer and shall cooperate in the investigation.

9] Interim Application No.3894 of 2022 for intervention is not on board. Taken on board.

10] In view of disposal of anticipatory bail application, the Interim Application does not survive and the same is disposed of.

[N.R.BORKAR, J.]