

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.845 OF 2023

DNYANESHWAR BABASAHEB DIVTE
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Mayur Bharatrao Borse
APP for Respondent – State : Mr. S.N. Morampalle

...

AND

ANTICIPATORY BAIL APPLICATION NO.745 OF 2023

PARAJI @ PARJI BHIVSAN DASPUTE
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. S.S. Thombre
APP for Respondent – State : Mr. S.N. Morampalle

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CORAM : R. M. JOSHI, J.
DATE : 13th JULY, 2023

PER COURT :

. Applicants are apprehending arrest in connection with
Crime No.105 of 2023 registered with Phulambri Police Station, Dist.
Aurangabad for the offences punishable under Section 395 of the
Indian Penal Code and Section 3, 25 of the Arms Act.

2. First Information Report shows that on 08.03.2023 when the informant had taken custody of vehicle from the Tahsil office after paying penalty and the said vehicle was being taken away by Samruddhi Highway, one Scorpio, Innova, Swift Desire and Tata Nexon vehicles obstructed them. Around 20 persons alighted from these vehicles and they assaulted driver of Highwa vehicle. Informant further states that he was abducted and was assaulted with iron rod and sword. He was left in the forest and that two gold rings and cash of Rs.65,000/- were robbed.

3. Learned counsel for applicants have referred to report of police wherein there is mention about only one scorpio car having followed highwa vehicle. Learned counsel state that it is practically impossible that 20 persons would be there in one car. Thus, it is their contention that this is a case of false implication. They further state that names of applicants are not mentioned in First Information Report and that similarly placed accused are already enlarged on bail by learned Additional Sessions Judge.

4. Learned APP opposed applications by contending that

there is statement of one witness who has named present applicants as assailants. He also drew attention of this Court to the statement of driver of Highwa vehicle.

5. There is no dispute about the fact that names of both applicants are not mentioned in the First Information Report. Statement of witness which has been relied upon by learned APP bearing names of some of applicants and it indicates that he (witness) went to the spot where informant was found at around 12:00 midnight. He does not claim that he is witness of incident which was occurred much earlier in the day. As far as statement of driver is concerned he does not name anyone, but his statement is similar to the First Information Report.

6. Copy of the order placed on record demonstrates that co-accused against whom similar role is attributed, are enlarged on anticipatory bail.

7. Having regard to the aforesaid facts, following order is passed.

ORDER

(i) Both applications are allowed in terms of interim orders passed on 30.05.2023 and 11.05.2023 in Anticipatory Bail Applications No.845 of 2023 and 745 of 2023 respectively.

[R. M. JOSHI]
JUDGE

GGP