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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1068 OF 2023**

1. Sanjay Maruti Shinde	...
2. Kalpesh @ Bablu Vishwas Parte	...Applicants
vs.	
State of Maharashtra	...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.1172 OF 2023**

Yogesh Gorakhanath Shinde	...Applicant
vs.	
State of Maharashtra	...Respondent

Mr. Abad Ponda, Senior Advocate with Mr. Siddharth Karpe with Mr. Vishwajeet Mohite for the Applicant in ABA No.1068/2023.
Mr. Sanjeev Kadam with Mr. Siddharth Karpe with Mr. Vishwajeet Mohite for the Applicant in ABA No.1172/2023.
Mr. H. J. Dedhia APP for the Respondent in ABA No.1068/2023.
Mr. Y. Y. Dabke APP for the Respondent in ABA No.1172/2023.

CORAM : S. M. MODAK, J.

DATED : 27TH APRIL 2023

P. C. :

1. Heard learned Senior Advocate Mr. Ponda for the Applicant in ABA No.1068/2023, learned Advocate Mr. Kadam for the Applicant in ABA No.1172/2023, learned APP Mr. Dedhia and learned APP Mr. Dabke for the Respondent-State in ABA No.1068/2023 and in ABA No.1172/2023 respectively.

2. The Officer is present.
3. Both learned Advocate for the Applicants have brought on record certain materials which suggest that assault did not take place in the manner as entirely suggested by the first informant-Umesh Ramesh Rokade but also there is counter version to the incident as narrated by the present Applicant-Yogesh Gorakhanath Shinde. Even he was assaulted in that incident and also received some injuries. The police of Satara police station recorded statement on 21st March 2023. There is one more reason to say so.
4. Even though his brother Kumar Shinde is referred in the FIR lodged by the first informant-Umesh Rokade and there is specific allegation against him., he produced certain material in the form of pendrive containing CCTV footage showing that at the relevant time, he was in Mumbai. The said Kumar Shinde is granted anticipatory bail by the Court of Additional Sessions Judge, Wai, after considering said material which suggest that he was not on the spot but at Mumbai.
5. There is one more contention raised on behalf of the Applicants so as to raise doubt about the manner of assault as stated by the first informant. I have perused the FIR. It does suggest that

he and other persons travelling in Wagon-R car and motor cycles were beaten with help of hockey stick. According to them if these allegations on one hand and their respective medical certificates on the other hand are considered, the injuries do not corroborate the manner in which they were alleged to be assaulted. There are four injured persons in that incident from side of the first informant. They are as follows :

- (i) Umesh Ramesh Rokade the first informant.
- (ii) Meera Rokade is mother of the first informant.
- (iii) Deepak Bhat.
- (iv) Shraddha Umesh Rokade is wife of the first informant.

6. Their certificates are shown to me on behalf of applicants.

They are as follows :

- (a) Meera Rokade – issued by Rural hospital, Mahabaleshwar and by Yashwant hospital.
- (b) Deepak Bhat – issued by Rural hospital and by Yashwant hospital.
- (c) Ramesh Bandu Rokade – issued by Rural hospital.
- (d) Umesh Ramesh Rokade – issued by Rural hospital.

7. As per the allegations in the FIR, which was registered by the Mahabaleshwar police station on 21st March 2023, for the offence punishable under sections 307, 323, 324, 143, 144, 147, 148, 140, 506 of IPC (page 19), these three Applicants are apprehending arrest. The sum and substance of the allegations is that the first informant and his family members and others have gone to village Mahad, District Raigad for garlanding the statue of Dr.Babasaheb Ambedkar on 20th March 2023 and they were returning to Mahabaleshwar in Wagon-R car and on motor cycles, they were intercepted at Junglee Holiday Home by accused persons, amongst them these three Applicants were there. The party comprising assailants came in two vehicles. The Applicant-Yogesh, Bablu and others came in Honda City vehicle. Whereas the Applicant-Sanjay and Kumar (who is granted anticipatory bail), they were traveling in Bolero car. The Applicant-Yogesh, Bablu and others beat the father and Maternal Uncle (who were on motorcycles) of the first informant with help of hockey stick. When occupants of Wagon-R car got down, they were also beaten with help of hockey sticks. At that time the Applicant-Yogesh threw hockey stick and brought sword from Bolero car of accused Kumar Shinde and they beat the

mother and Maternal Uncle of the first informant. There are injuries caused to face of mother of the first informant. They were all beaten by four unknown persons, who came on motor cycles, with pipes and hockey sticks. Thereafter the assailants ran away. Then the first informant and injured have gone to Mahabaleshwar police station.

8. This is story narrated by the first informant. Whereas the Applicant-Yogesh is having different story. The said Yogesh along with few others, were returning from Mahad and when they came near same farm house at 8.30 pm on 20th March 2023, the witness Deepak Bhat threatened him and when he was about to assault him with help of sickle, the Applicant-Yogesh some how avoided blow, as a result, he received injuries to his hands. The witness-Umesh also assaulted him with help of PVC pipe. Some how he managed to escape and then went to Mahabaleshwar police station. Then he was shifted to Rural hospital. His grievance is that when he went to Mahabaleshwar police station and informed about the incident, his statement was not recorded. He was referred to Rural hospital. That certificate is there on record. Thereafter, he was shifted to hospital in Satara. The Satara City police station has recorded his statement on 21st March 2023.

9. Learned Advocate placed reliance on footage recorded in CCTV camera installed in the police station. Learned APP after taking instructions submitted that no doubt he had come to Mahableshwar police station. But it is fact that initially also, and later on also, till today, on the basis of his statement there is no offence registered against any one as mentioned in that statement.

10. If we see certificate of four persons from the prosecution side, it is no doubt true that all of them have received either minor injuries or grievous injuries. Some of them are incised wounds whereas there are cut lacerated wounds.

11. Learned Senior Advocate Mr. Ponda and learned Advocate Mr. Kadam submitted that the fact that Kumar was not there at the spot, even though he is implicated in the incident, it suggest that entire story stated by the first informant is not true. They also submitted that there is no specific role assigned to the Applicant-Sanjay. He submitted that Anticipatory Bail Application cannot be rejected only for purpose of recovery of weapons and he relied upon observations of the Hon'ble Supreme Court in case of ***Sushila Aggarwal and Others and State (NCT of Delhi)***¹ and more specific observation

1 2020 0 Supreme Court (SC) 87

made by the Hon'ble Supreme Court in *Gurbaksh Singh Sibbia Vs. State of Punjab*². He also relied upon observation in case of *Jagannath Ramchandra Biyani vs. State of Maharashtra*³.

12. Learned Advocate Mr. Kadam also submitted that no case for custodial interrogation is made out. My attention is also invited to the photograph of Honda City car annexed to the Application. They have already surrendered car to the police. Those photographs are on pages 42 and 43. Whereas contention is raised that wife of the first informant – Shraddha is having some relation with the Applicant-Yogesh and she has written letters. They are on pages 33 to 41.

13. As against this learned APP Mr. Dedhia and learned APP Mr. Dabke submitted that there are specific allegations and there are injuries caused to these witnesses. My attention is invited to certificate in respect of injuries caused to Mira Rokade. The doctor has noticed that there is permanent disfigurement of face.

14. Learned APP Mr. Dabke submitted that the Applicant-Yogesh is having criminal background and apart from this offence there are two offences registered against him. The details are furnished. They

² (1980) 2 SCC 565

³ 1981 0 Supreme (Bom) 144

are of the year 2012 and 2015 and amongst them he is acquitted in offence of 2012.

15. If we consider the allegations, no doubt there are allegations against these Applicants and the hockey sticks and swords have been used. It is also true that the prosecution witnesses are also injured in this incident. The materials pointed out by the Applicants do suggest that the first informant has named the accused Kumar. Even though there is material to suggest that prima facie he was not there at spot.

I have read specific allegations against said accused-Kumar. There is allegation that he used hockey-sticks. So if he was not there how such allegations can be made. These are prima facie observation made by the Court of Additional Sessions Judge. There is no other material produced by the prosecution. I agree to these observations.

16. Another circumstance which comes to my mind is filing of complaint by the complaint by the Applicant-Yogesh, neither at the initially stage and nor subsequently at Mahabaleshwar police station have registered the offence on his complaint. No doubt cognizable offence is disclosed if we read his FIR. So I think that for all these reasons these Applicants need to be granted anticipatory bail. Merely because, there are allegations that the weapons are used and merely

because there are injuries caused to witnesses, it does not mean to discard their theory and reject the Anticipatory Bail Application. The other circumstances brought on record suggest that entire story narrated by the first informant cannot be accepted even at prima facie stage. So all the Applicants be granted Anticipatory Bail. Hence, the following order is passed :

ORDER

- (a) In the event of arrest, Applicant No.1-Sanjay Maruti Shinde and Applicant No.2-Kalpesh @ Bablu Vishwas Parte in Anticipatory Bail Application No.1068 of 2023 and Applicant- Yogesh Gorakhanath Shinde in Anticipatory Bail Application No.1172 of 2023 be released on bail on furnishing personal bond and surety bond of Rs.25,000/- each in connection with C.R. No.36 of 2023 dated 21/03/2023 registered with Mahabaleshwar police station for the offences punishable under sections 307, 323, 324, 143, 144, 147, 148, 140, 506 read with 34 of IPC.
- (b) The Applicants shall not threaten the prosecution witnesses or allure them in any manner

- (c) The Applicants shall give attendance to the Mahabaleshwar police station on every Monday and Thursday from 10 am to 12 noon for until filing of the charge-sheet.
 - (d) Needless to say, violating of the condition above will make the Applicants liable for cancellation of anticipatory bail, after notice to the Applicants.
17. Both Applications are disposed of accordingly.
18. These are my prima facie observations and the trial Court may not be influenced by that.
19. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]