

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

ANTICIPATORY BAIL APPLICATION NO. 3349 OF 2023

1. Akash Bapurao Deshmukh
2. Pravin Popatrao Deshmukh
3. Prakash Popatrao Deshmukh ...Applicants
Versus
The State of Maharashtra ...Respondent

AND

ANTICIPATORY BAIL APPLICATION NO. 3354 OF 2023

Popatrao Gulabrao Deshmukh ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Prashant Hagare, for the Applicants in both ABA.
Smt. Ashwini Takalkar, APP for the State/Respondent.
API Ashok Hulge, Phaltan (R) Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED: 1st DECEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicants and the learned APP for the State.
2. These applications are for pre-arrest bail in connection with CR No.1555 of 2023, registered with Phaltan Rural Police Station, Satara, for the offences punishable under Sections 143, 147, 148, 149, 307, 323, 324 and 504 of the Indian Penal Code, 1860 ("the Penal Code").

3. There was a dispute between the first informant and the accused party. On 8th October, 2023, co-accused Sachin Deshmukh had called the first informant at his house at Bhoite Vasti to resolve the dispute. At about 7.00 pm. the first informant alongwith Suraj Bhoite, Rohan Nimbalkar and Vinod Bhoite went to the house of Sachin Deshmukh.

4. The first informant alleged, accused Nos.1 to 5 – the co-accused ladies from the family of Pravin Deshmukh; applicant No.2, raked up quarrel and allegedly threw chilly powder on the face of the first informant and his associates. Akash; applicant No.1, and Pravin; applicant No.2, allegedly assaulted the first informant by means of an axe. Applicant No.1 Akash also gave blow by means of an axe on the forehead of Suraj Bhoite. Applicant No.3 Prakash allegedly gave a blow by means of an iron rod on the head of Rohan Nimbalkar. Popatrao Deshmukh; the applicant in ABA/3354/2023, and co-accused Bapurao Deshmukh, assaulted Vinod Bhoite by means of fist and kick blows. Alleging that the applicant and co-accused in prosecution of the common object of the unlawful assembly committed rioting armed with deadly weapons and attempted to commit

murder of the first informant and injured witnesses, the first informant lodged the report.

5. The learned Counsel for the applicants submitted that the instant FIR was lodged as a counterblast to FIR No.1548 of 2023 lodged by Vidya Deshmukh; wife of applicant No.2 Pravin Deshmukh, against the informant party for the offences punishable under Sections 143, 147, 148, 149, 324, 323, 452, 504 and 506 of the Penal Code at a prior point of time, on 9th October, 2023 itself. In fact, the informant party had come to the house of the applicants armed with deadly weapons and assaulted the members of the accused party. The members of the accused party had sustained multiple injuries on account of the assault perpetrated by the members of the informant party.

6. The learned APP resisted the applications for pre-arrest bail. It was submitted that specific role of assault by means of deadly weapons has been attributed to the applicants. The versions of the first informant and injured witnesses *prima facie* find support in the injury certificates. Therefore, the applicants do not deserve the exercise of the discretion.

7. I have perused the allegations in the FIR as well as the statements of the witnesses. *Prima facie* it appears that in

respect of one and the same occurrence, two versions have been reported. A member of the accused party had lodged report prior in point of time. It further appears that the incident occurred at the house of the accused party and it was virtually a free fight between two groups armed with weapons. Members of both the groups appear to have sustained injuries in the said occurrence.

8. As the applicants had allegedly assaulted the first informant and the witnesses by means of deadly weapons like axe and iron rod, I have carefully perused the injury certificates of the first informant and the injured. None of the injured appear to have sustained any grievous injury. Each of them had sustained a simple injury. In the backdrop of the nature of the injuries sustained by the first informant and the injured, coupled with the counter version reported by the member of the accused party and the fact that the incident occurred at the house of the accused, the questions as to who were the aggressors and whether an offence punishable under Section 307 of the Penal Code can be said to have been made out, would warrant adjudication at the trial. Since the members of both the groups appear to have sustained

injuries in a free fight, I am persuaded to hold that a *prima facie* case for grant of pre-arrest bail is made out.

9. The applicants appear to have a fixed place of abode. Possibility of fleeing away from justice appears to be remote. I am, therefore, inclined to exercise the discretion in favour of the applicants. Hence the following order:

: O R D E R :

- (i) In the event of arrest of Akash Bapurao Deshmukh, Pravin Popatrao Deshmukh and Prakash Popatrao Deshmukh; the applicants in ABA/3349/2023 and Popatrao Gulabrao Deshmukh; the applicant in ABA/3354/2023, in CR No.1555 of 2023, registered with Phaltan Rural Police Station, Satara, the applicants be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, each.
- (ii) The applicants shall cooperate with the investigation and attend Phaltan Rural Police Station, on 8th, 9th and 11th December, 2023 in between 10.00 am. to 1.00 pm. and, thereafter, as and when directed.
- (iii) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to the first

informant or any of the persons acquainted with the facts of the case.

- (iv) The applicants shall regularly attend the proceedings before the jurisdictional court.
- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Applications stand disposed.

[N. J. JAMADAR, J.]