

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1290 OF 2023

1. Harshad Vijay Bhakare	
2. Vaibhav Suresh Kamble	...Applicants
V/s.	
The State of Maharashtra	...Respondent.

Mr. Zaid Qureshi for the Applicants.
Mr. P.H. Gaikwad Patil, APP for the Respondent/State.

CORAM : N.R. BORKAR, J.
DATE : 28.04.2023.

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, submits that applicant No.2 - Vaibhav Suresh Kamble has been arrested. In that view of matter, the present application *qua* the applicant No.2 does not survive.

3. The applicant No.1 is apprehending his arrest in Crime No. 73 of 2023 registered at Bhosari MIDC Police Station, Pune for the offences punishable under Sections 394, 323, 504, 427, 109 read with 34 of the Indian Penal Code and Section 37(1)(3) read with 135 of Maharashtra Police Act. .

4. I have heard the learned counsel appearing for the applicants and the learned APP for the respondent / State.

5. According to the prosecution, on the date of incident which took place on 28 February 2023, the applicant No.1 and other co-accused assaulted the complainant by stick. It is alleged that they had robbed him of his gold chain and bracelet.

6. According to the complainant himself, two days prior to the alleged incident, i.e., on 26 February 2023, while he was going home on his motorcycle one four wheeler came from behind and had overtaken his motorcycle in rash and negligent manner. According to the complainant, he noted down the registration number of said four wheeler and on enquiry from Regional Transport Office, he found that said four wheeler was registered in the name of Vikas Goyal, who is co-accused in the present crime. According to the complainant, on the date of incident, he had gone to the house of co-accused Vikas Goyal and found that he was not at home. According to the complainant, the wife of co-accused took his mobile number and told him that she would ask her husband to call him. It is alleged that after some time, he received phone call of another co-accused Imran Attar and he was called at the place of incident and when he went there he was assaulted and robbed.

7. Though according to the complainant, he was assaulted by four to five persons that too by sticks, however, he did not appear to have sustained any external injury. *Prima facie*, the complainant appears to have exaggerated the alleged incident to make it more serious offence. Considering the overall facts and circumstances, I am inclined to release the applicant No.1 on anticipatory bail. In

the result the following order is passed.

ORDER

A) The Application is partly allowed *qua* the applicant No.1 – Harshad V. Bhakare.

B) In the event of arrest of applicant No.1 - Harshad V. Bhakare in C.R. No. 73 of 2023 registered at Bhosari MIDC Police Station, Pune for the offences punishable under Sections 394, 323, 504, 427, 109 read with 34 of the Indian Penal Code and Section 37(1)(3) read with 135 of Maharashtra Police Act, he be released on bail on executing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

C) The applicant No.1 shall attend the concerned police station as and when called by the Investigating Officer and shall cooperate in the investigation.

8. The Application *qua* the applicant No.2 – Vaibhav Kamble is disposed of as infructuous.

[N.R.BORKAR, J.]