

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

ANTICIPATORY BAIL APPLICATION NO. 1844 OF 2023

1. Dinesh Parshuram Partole
 2. Shankar Dattu Partole
 3. Rutik Ramesh Suttar
 4. Rajesh Suresh Sutar ...Applicants
- vs.
- The State of Maharashtra ...Respondent

**ALONG WITH WITH
INTERIM APPLICATION NO. 2573 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO. 1844 OF 2023**

Mahendra Kashinath Botkondle ...Intervenor

In the matter between

1. Dinesh Parshuram Partole and Others ...Applicants
- vs.
- The State of Maharashtra ...Respondent

Mr.Tapan Thatte a/w Mr.Vivek N. Arote–Advocate for Applicants in
ABA No.1844 of 2023.

Mr.A.S.Khandeparkar - Senior Advocate a/w Mr.Vaibhav Kulkarni
a/w Mr.Rohit P. Mahadik i/b. Khandeparkar and Associates –
Advocates for Applicant – Intervenor in IA No.2573 of 2023.

Mr.S.R.Agarkar - APP for Respondent – State.

Mr.Vikas Naik – Dy.S.P – EOW – Thane Rural.

CORAM : S. M. MODAK, J.

DATED : 31ST JULY 2023

P. C. :

1. Heard learned Advocate for the Applicants, learned Senior Advocate Shri.Khandeparkar for the First-Informant and learned APP Investigating Officer is present.

2. There is an FIR registered at C.R. No. 58 of 2023 with Vashind Police Station – District : Thane Rural on 20th March, 2023 for the offences punishable under Sections 143, 147, 148, 149, 307, 326, 324, 323, 504, 506 of Indian Penal Code, 1860 [“IPC”] and under Sections 37(1), 135 of Maharashtra Police Act, 1951. There is a charge-sheet filed against few of the Accused persons. The present Applicants are not yet arrested and there is no charge-sheet against them.

3. The incident took place on 19th March, 2023 at about 8.30 p.m., in front of the house of one Ganesh Shankar Partole. In the election of Khativali Vasind Seva Sahakari Society, Ramchandra Kashinath Botkondle who is the brother of the First-Informant Mahendra Botkondle has filled in the form. He got elected. However, prior to serving as a director, he was murdered. One Vilas Dattu

Partole lost that election. When there was procession to celebrate the success in the election and when, it reached in front of the house of Ganesh Partole, the Accused named in the FIR formed an unlawful assembly and they assaulted with the help of rods and sticks. In that assault, Ramchandra Kashinath Botkondle was initially seriously injured and later on, he succumbed to the injuries. There are also other injured persons.

4. The anticipatory bail is sought by these Applicants for the reason that the allegations are general in nature and this Court has already granted an anticipatory bail to co-accused Deepak Kondiram Botkondle on 4th May, 2023 in Anticipatory Bail Application No.1249 of 2023.

5. Learned Senior Advocate Shri.Khandeparkar submitted that the offence is serious. It is true that charge-sheet is filed against arrested Accused persons. It is true that considering the averments in the FIR and the charge-sheet papers, no case for their custodial interrogation is made out. Learned APP opposed the prayer. But, in respect of principles of law are concerned, he fairly admits that Section 149 of IPC is invoked which deals with liability of every member of unlawful assembly.

6. An anticipatory bail cannot be denied merely because an offence is serious. Ultimately, the Court is concerned with need for custodial interrogation. Considering the facts stated above, no case for custodial interrogation is made out. Hence, order :-

O R D E R

- (i) Application is allowed.
- (ii) In case of an arrest in connection with C.R. No. 58 of 2023 registered with Vashind Police Station – Thane Rural for the offences punishable under Sections 143, 147, 148, 149, 307, 326, 324, 323, 504, 506 of IPC and under Sections 37(1), 135 of Maharashtra Police Act, the Applicants viz.,
 - (i) Dinesh Parshuram Partole
 - (ii) Shankar Dattu Partole
 - (iii) Rutik Ramesh Suttar
and
 - (iv) Rajesh Suresh Sutar
 be released on furnishing personal bond and surety bond of Rs.25,000/- each.
- (iii) Applicants are directed to give their attendance to Vashind Police Station – Thane Rural on 4th August, 11th August and 18th August, 2023 from 3.00 to 5.00 p.m.
- (iv) Applicants not to threaten the Prosecution witnesses or to allure them in any manner.
- (iv) Applicants to attend the trial Court punctually.

7. These are my *prima facie* observations. Let the learned trial

Court need not be influenced by them.

8. Application is disposed of in the aforesaid terms.
9. In view of the above, Interim Application is also disposed of.
10. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]