



Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 2735 OF 2023

Ankit Tulshidas Patel ...Applicant

Vs.

The State of Maharashtra ...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 2141 OF 2023

Harshvardhan Yashwant Patil ...Applicant

Vs.

The State of Maharashtra ...Respondent

WITH

INTERIM APPLICATION NO.3668 OF 2023

Mr. Kedar J. Patil with Pratik T. with Mr. Yogesh G. and Ms. Sakshi Kadam, for Applicants.

Mrs. A. A. Takalkar, APP for State.

Mrs. Prabha Badadare, for Intervenor in IA/3668/2023.

Mr. Rothe, PSI, Ganeshpuri Police Station, present.

CORAM:- N. J. JAMADAR, J.

DATED:- 10th OCTOBER, 2023

PC:-

- 1) Heard the learned counsel for the applicants and the learned APP for the State.
- 2) These applications are preferred for pre-arrest bail in connection with C.R. No. 58 of 2023, registered with Ganeshpuri police station, Thane Rural, for the offences punishable under Sections 324, 323, 504 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").
- 3) By orders dated 3rd October, 2023 in ABA No. 2735 of 2023 and 17th August, 2023 in ABA No. 2141 of 2023, this Court was persuaded to grant interim bail by ascribing reasons.
- 4) The learned Counsel for the applicants submitted that though the incident had occurred on 13th May, 2023, the applicants were named as the assailants, for the first time on 6th June, 2023. The deceased in his statement had specifically named only four accused as the persons who assaulted him by means of stick and fist and kick blows.
- 5) Attention of the Court was also invited to the initial injury certificate, which indicates that the deceased had sustained three simple injuries. Laying emphasis on the absence of correlation between those injuries and the cause of death, it was

submitted that question as to whether the deceased suffered homicidal death warrants adjudication.

6) The learned APP and the learned Counsel for the first informant – Intervenor, on the other hand, submitted that there are statements of witnesses and CCTV footage, which show the presence of the applicants at the time and place of the occurrence.

7) Attention of the court was invited to the statements of Vishal and Prathamesh.

8) I have perused those statements. Prima facie it does not appear that the said witnesses have attributed specific role of assault by means of any weapon to the applicants. The CCTV footage also prima facie does not indicate that the applicants perpetrated the assault upon the deceased.

9) What is of critical salience is the fact that the deceased passed away on 31st May, 2023. It does not appear that, in the intervening period any further statement of the deceased was recorded so as to fix identity of any of the applicants as one of the assailants. This assumes significance as the deceased had specifically named four assailants.

10) In the aforesaid view of the matter, I am impelled to make the orders of interim bail absolute.

11) The learned APP submitted that there is an apprehension of tampering with evidence and threatening the witnesses, as the father of the deceased has lodged a NC complaint. The apprehension on the part of the prosecution can be taken care of by imposing conditions.

12) Hence, the following order:-

ORDER

I) The orders of interim bail dated 3rd October, 2023 in ABA No. 2735 of 2023 and 17th August, 2023 in ABA No. 2141 of 2023 are made absolute on the terms and conditions incorporated therein.

II) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant, any of the relatives of the deceased or any of the persons acquainted with the facts of the case.

III) The applicants shall not enter the limits of Ganeshpuri police station for a period of six months except for attending the proceedings before the Court or

Ganeshpuri Police Station as and when directed by the Investigating Officer.

IV) The applications stand disposed.

V) In view of dismissal of the ABA, the Interim Application also stands disposed.

[N. J. JAMADAR, J.]