

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 2368 OF 2023

SANTOSH
SUBHASH
KULKARNI

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SANTOSH SUBHASH
KULKARNI
Date: 2023.09.01
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Kapil Vilas Partole ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Dushyant Pagare, for the Applicant.
Mr. M. G. Patil, APP for the State/Respondent.
Mr. Vikas Naik, Dy. S.P., EOW, Thane Rural.

CORAM: N. J. JAMADAR, J.
DATED: 29th AUGUST, 2023

ORDER:-

1. Heard the learned Counsel for the applicants and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR 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 and 506 of the Indian Penal Code, 1860 ("the Code") and Section 135 read with Section 37(1) of the Maharashtra Police Act, 1951.
3. The indictment against the applicant is that the applicant was a member of an unlawful assembly in prosecution of the common object of which the applicant and other co-accused committed rioting armed with deadly

weapons and assaulted Ramchandra Botkundale and other injured.

4. The learned Counsel for the applicant submits that similarly circumstanced co-accused Dipak Botkundale (ABA/1249/2023) and Dinesh Partole, Shankar Partole, Rutik Sutar and Rajesh Sutar (ABA/1844/2023) have been granted pre-arrest bail. The learned Counsel for the applicant invites the attention of the Court to the orders passed by this Court on 4th May, 2023 in ABA/1249/2023 and 31st July, 2023, whereby the abovenamed co-accused have been released on bail.

5. The learned APP, on the other hand, submitted that in addition to the offence of rioting and causing grievous hurt to the injured in prosecution of the common object of unlawful assembly, the statement of one of the victims indicates that the applicant had outraged the modesty of the victim.

6. I have perused the statement of the said alleged victim. The allegations of outraging the modesty are primarily against co-accused Rajesh and Dinesh. Those co-accused have already been granted pre-arrest bail by an order dated 31st July, 2023.

7. In the backdrop of the nature of the accusation, at this length of time, where investigation seems to be complete for all intent and purpose, custodial interrogation of the applicant does not seem warranted. Thus, I am inclined to exercise the discretion.

8. Hence, the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in connection with CR No.58 of 2023 registered with Vashind Police Station, Thane Rural, the applicant 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.
- (ii) The applicant shall cooperate with the investigation and attend Vashind police station, Thane Rural, on every alternate Sunday in between 10.00 am. to 12.00 noon for a period of two months.
- (iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

- (iv) The applicant 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.

Application stands disposed.

[N. J. JAMADAR, J.]