

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**ANTICIPATORY BAIL APPLICATION NO.2666 OF 2023**

Mangesh Shantaram Gaikwad and Others ...Applicants  
vs.  
The State of Maharashtra ...Respondent

**WITH**  
**ANTICIPATORY BAIL APPLICATION NO.2686 OF 2023**

Manoj Shantaram Gaikwad and Others ...Applicants  
vs.  
The State of Maharashtra ...Respondent

Mr. Bhalchandra Shinde a/w. Mr. Ganesh Pawar, for the Applicant in  
ABA No. 2666 of 2023.

Mr. Ashok Tajane, for the Applicant in ABA No. 2686 of 2023.

Mr. R.M. Pethe, APP, for the Respondent/State.

Mr. G.S. Gadilkar, HC, Mahalunge MIDC police station present.

**CORAM : N. J. JAMADAR, J.**

**DATE : SEPTEMBER 21, 2023**

**P.C.:**

ABA No. 2666 of 2023 :-

1. Heard the learned counsel for the applicants and the learned  
APP for the State.
2. This application is preferred seeking pre-arrest bail in  
connection with C.R. No. 386 of 2023 registered at Mahalunge  
MIDC police station for the offences punishable under sections 324,  
323, 504, 506, 354 and 509 read with 34 of Indian penal Code,  
1860.

3. The first informant Manoj Gaikwad and applicant No. 1 Mangesh Gaikwad are the sons of applicant No. 2 Bharti Gaikwad. Applicant No. 3 Shubhangi Gaikwad is the wife of applicant No. 1 Mangesh Gaikwad and his family stays on the first floor of the family house. The first informant stays on the ground floor. There is a dispute between applicant No. 1 and the first informant over the directorship of a company.

4. On 10<sup>th</sup> July, 2023 an altercation ensued. While applicant No. 2 Bharti was abusing the first informant Manoj, the applicant No. 1 Mangesh allegedly assaulted the first informant and gave blows by means of a bucket. When the wife of the first informant came to his rescue, the applicant No. 1 whipped out a knife and attempted a blow on the head of the first informant. Wife of the first informant was also assaulted. The applicant No. 1 allegedly outraged the modesty of the wife of the first informant.

5. The learned counsel for the applicant submitted that initially the first information report was registered for the offence punishable under sections 323, 324, 504 and 506 read with 34 of the Code only. Belatedly, on the basis of supplementary statement of the wife of the first informant recorded on 24<sup>th</sup> August, 2023 offences punishable under section 354 and 509 have been added. This delay impairs the version of the victim. It was further

submitted that, in fact, the applicant No. 1 Mangesh had sustained grievous injuries in the said occurrence in respect of which the applicant No.1 Mangesh had lodged first information report No. 385 of 2023.

ABA No. 2686 of 2023 :-

6. This application is preferred seeking pre-arrest bail in connection with C.R. No. 385 of 2023 registered at Mahalunge MIDC police station for the offences punishable under sections 323, 324, 504, 506 read with 34 of Indian penal Code, 1860.

7. The applicant No. 1 Manoj is the first informant in C.R. No. 386 of 2023. Accused No. 2 is his wife. Applicant No. 1 Mangesh in ABA No. 2666 of 2023 lodged a report with the allegations that in the course of aforesaid occurrence, the applicant No. 1 Manoj assaulted him by means of a sickle and he had sustained grievous injury. The applicant No. 2 had assaulted him by means of a flower pot.

8. Evidently, the genesis of the alleged offences in both the first information reports is in the dispute between the brothers over the directorship of a company and partition of the family properties. In respect of one and the same occurrence, two versions have been reported. So far as, the alleged offences in first information report

No. 386 of 2023 prima facie the addition of the charge for the offence punishable under section 354 of the Code is on the basis of a statement, which has been recorded belatedly. The delay in reporting the alleged incident of outraging the modesty of the wife of the first informant in the said first information report, at this stage, makes out a prima facie case for grant of pre-arrest bail, as this is the only non-bailable offence. In respect of first information report No. 385 of 2023 having regard to the relationship between the parties and the fact that in a free fight at the family house the members of both the groups suffered injuries, I am inclined to exercise the discretion in favour of the applicant.

Hence, the following order.

### **ORDER**

#### **ABA No. 2666 of 2023 :-**

- 1] In the event of arrest in C.R. No. 386 of 2023 registered with Mahalunge MIDC police station, the applicants be released on bail on furnishing a P.R. bond in the sum of Rs. 30,000/- with one or two sureties in the like amount, each.
- 2] The applicants shall cooperate with the investigation and attend Mahalunge police station, on every alternate Wednesday in between 10 am to 12 noon for one month.

3] The applicants shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or the persons acquainted with the facts of the case.

ABA No. 2686 of 2023 :-

1] In the event of arrest in C.R. No. 385 of 2023 registered with Mahalunge MIDC police station, the applicants be released on bail on furnishing a P.R. bond in the sum of Rs. 30,000/- with one or two sureties in the like amount, each.

2] The applicants shall cooperate with the investigation and attend Mahalunge police station, on every alternate Thursday in between 10 am to 12 noon for one month.

3] The applicants shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or the persons acquainted with the facts of the case.

Applications disposed.

**(N. J. JAMADAR, J.)**