

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3037 OF 2023

Shreyas Shrikant Mhatre	...Applicant
vs.	
The State of Maharashtra	...Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.3038 OF 2023

Pramod Mukund Dalvi	...Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Ganesh Gole a/w. Mr. Aarif Ali i/b. Mr. Ninad Muzumdar, for the Applicant in ABA NO. 3037 of 2023.

Mr. Shirish Gupte, Senior Advocate a/w. Mr. Satish Maneshinde i/b. Mr. Waqar Pathan, for the Applicant in ABA No. 3038 of 2023.

Mr. M.G. Patil, APP, for the State in ABA No. 3037 of 2023.

Mr. S.H. Yadav, APP for the State in ABA No. 3038 of 2023.

Mr. Jehangir Khajotia, for the Intervener.

CORAM : N. J. JAMADAR, J.

DATE : OCTOBER 30, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. These applications are preferred seeking pre-arrest bail in connection with C.R. No. 920 of 2023 registered at Virar police station for the offences punishable under sections 307, 326, 120B, 201 and 506 of Indian penal Code, 1860.

3. The first informant is a builder. On 26th September, 2023 at about 2 pm while he was leaving the office for lunch, three persons

alighted from a Mahindra SUV 500. They were armed with baseball sticks. They mounted assault on the first informant. He tried to fend off the blows by his hands. The first informant sustained injuries. As he raised alarm, persons gathered and thereupon the assailants fled away in the said car. He was shifted to the hospital and, thereafter, the first informant lodged report. The first informant entertained suspicion against the applicants for the said assault by unknown persons.

4. The learned Additional Session Judge declined to exercise the discretion in favour of the applicant. Hence, these applications.

5. Mr. Gupte, the learned senior counsel for the applicant Pramod Dalvi (ABA No. 3038 of 2023) submitted that there have been civil disputes between the applicants and the first informant and on account of rivalry, the applicants have been falsely roped in. Mr. Gupte would urge that, at this stage, the material against the applicant Pramod Dalvi is primarily the statement of the co-accused who has been arrested. Such statement of the co-accused is not at all admissible. Therefore, the applicant can not be deprived of their personal liberty. The applicants are ready to cooperate with the investigation. They have roots in society. Hence, the applicants deserve pre-arrest bail.

6. In opposition to this, the learned APP submitted that the

injury certificate indicates that the first informant had sustained multiple fractures. There is prima facie material to lend support to the version of the first informant. The co-accused Sarin @ Sahil Khan has disclosed the entire sequence of events including the role of the applicant Pramod in employing the hirelings to cause grievous hurt to the first informant, the meetings held and the money paid. To add to this, according to learned APP, there are CCTV footages and the statement of witnesses in whose presence the applicant Pramod Dalvi met the assailants. Thus, Pramod Dalvi does not deserve the exercise of the discretion, submitted the learned APP.

7. So far as applicant Shreyas Mhatre, learned APP submitted that the investigation till date has not revealed prima facie complicity.

8. The submission of Mr. Gupte that a statement of an accused made before the police is not admissible is impeccable. However, the stage of the proceeding is of significance. At the stage of investigation, the investigating officer would be within his rights in taking leads from the statement of the co-accused. Therefore, it cannot be said that the statement of the co-accused is of no use for any intent and purpose even at the stage of investigation.

9. If the matter rests in the realm of the statement of the co-

accused, be it in the form of disclosure statement under section 27 of Evidence Act or otherwise, different considerations come into play. However, where there is independent material which lends support to the leads taken by the investigating officer from the statement of the co-accused, such material can not be brushed aside lightly.

10. In the case at hand, the co-accused has not only stated that the first informant was assaulted at the instigation of the applicant Pramod Dalvi but also that the applicant had arranged to pay a sum of Rs. 3 lakhs. There are CCTV footages which show that the applicant had met the assailants/co-accused twice, the last meeting being, a day prior to the occurrence. One witness has also stated about the presence of the applicant on 27th September, 2023 in his hotel along with three unknown persons. Prima facie, it appears to be a case of employing hirelings to cause grievous hurt to the first informant.

11. In the face of the aforesaid material, I am not persuaded to exercise the discretion in favour of the applicant Pramod Dalvi (ABA No. 3038 of 2023). The custodial interrogation of the applicant is warranted to facilitate complete and effective investigation. Grant of pre-arrest bail to Pramod Dalvi would be prejudicial to the cause of effective investigation and to the victim.

12. Anticipatory Bail Application No. 3038 of 2023 stands rejected.

13. In view of the submission of learned APP, the application of Shreyas Mhatre, however, deserves to be allowed.

14. In the event of arrest in C.R. No.920 of 2023 registered with Virar police station, the applicant Shreyas Shrikant Mhatre (ABA No. 3037 of 2023) 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.

15. The applicant shall cooperate with the investigation and attend Virar police station as and when directed.

16. The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

17. The applicant shall regularly attend the proceedings before the jurisdictional Court.

18. It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Applications disposed.

(N. J. JAMADAR, J.)