

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

ANTICIPATORY BAIL APPLICATION NO. 3140 OF 2023

Bhiku Sahdev Jadhav and Others

...Applicants

Vs.

The State of Maharashtra

...Respondents

Mr. Dheeraj Panchange, for Applicants.

Mr. M. G. Patil, APP for State.

Mr. S. K. Rathod, ASI, Badlapur (W) Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATE:- 4th NOVEMBER, 2023.

PC:-

1) Heard the learned counsel for the applicants and the learned APP for the State.

2) This application is preferred for pre-arrest bail in connection with C.R. No. 280 of 2023, registered with Badlapur (West) Police Station, for the offences punishable under Sections 452, 354, 324, 323, 504, 141, 143, 147 and 149 of Indian Penal Code, 1860 ("the Penal Code").

3) The first informant resides on 4th Floor, Sadguru Residency. Applicant No. 2 – Kiran Pawar resides on the 3rd Floor. There were quarrels between the first informant and applicant No. 2.

4) On 22nd October, 2023 an altercation ensued as the co-accused Aasha Mhaskar started to abuse the husband of the first informant. The first informant and her husband went to their flat. The applicant No. 2 Kiran, applicant No. 1 – Bhiku Jadhav, the father-in-law of applicant No. 2, Milind More and Nitin More, the applicant Nos. 3 and 4, who also reside in the said Society along with co-accused committed house trespass and assaulted the first informant and her husband. Applicant No. 1- Bhiku allegedly used criminal force to the first informant with intent to outrage her modesty. Applicant No. 3 Milind had pelted a showpiece tortoise on the person of the first informant's husband. Eventually, the first informant, her husband and son were rescued by Umesh Lad, another resident of the society.

5) The learned Counsel for the applicants submitted that the sister of the applicant No. 2- Kiran, namely Sheetal Pawar, had lodged a report against the informant party, being CR No. 279 of 2023, for the offences punishable under Sections 354, 324, 323 and 504 of Indian Penal Code. 1860, prior in point of time. With

a view to give a counterblast, the first informant lodged the instant FIR. It was submitted that the ingredients of an offence punishable under Section 354 of the Penal Code, are not prima facie made out.

6) The learned APP submitted that the allegations in the FIR indicate that the applicants had formed an unlawful assembly and in prosecution of the common object of the said assembly, assaulted the first informant, her husband and their 12 year old son and the modesty of the first informant was outraged.

7) Prima facie, it appears that in respect of the same incident, two cross versions have been reported. In view of the disputes between the parties being the residents of the same Society, it appears, there have been altercations. Prima facie, a case for the offence punishable under Section 452 of the Penal Code can be said to have been made out. However, so far as the offence under Section 354 as there was a scuffle between two groups, the question as to whether applicant No. 1 – Bhiku had the requisite intent or knowledge to outrage the modesty of the first informant appears to be debatable. The applicants appear to have roots in society. Possibility of tampering with evidence and fleeing away from justice seems remote.

8) I am, therefore, inclined to exercise the discretion in favour of the applicants.

9) Hence, the following order:-

ORDER

I) In the event of arrest of the applicants in connection with C.R. No. 280 of 2023, registered with Badlapur (West) Police Station, for the offences punishable under Sections 452, 354, 324, 323, 504, 141, 143, 147 and 149 of Indian Penal Code, 1860, the applicants be released on bail on executing a PR Bond in the sum of Rs.30,000/- each, with one or two sureties in the like amount.

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

III) The applicants shall co-operate with the investigation and attend Badlapur (West) police station on 9th and 10th November, 2023 in between 10.00 am to 1.00 pm and, thereafter, as and when directed by the Investigating Officer.

IV) It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

V) The application stands disposed.

[N. J. JAMADAR, J.]