



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1919 OF 2023

CCL

Through His Father

Sanjay Bhavan Bhamare

... Applicant

VERSUS

The State Of Maharashtra

And Another

... Respondents

WITH

ANTICIPATORY BAIL APPLICATION NO. 2078 OF 2023

Devesh @ Dadu Dipak Kapoor

... Applicant

VERSUS

The State Of Maharashtra

And Another

... Respondents

.....

Mr. V.D. Sapkal, Senior Advocate i/b Mr. S.R. Sapkal, Advocate
for Applicants

Mr. S.V. Hange, APP for Respondents – State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 04th MARCH, 2024

ORDER :

1. Applicant in ABA/1919/2023 is a child in conflict with law (for short, 'CCL'). Applicant in ABA/2078/2023 claims to be a student taking education. Applicants have filed these applications seeking anticipatory bail in crime no.0265 of 2023, registered with Deopur Police Station, District- Dhule for offences punishable under sections 307, 143, 144, 147, 148, 149, 323, 504, 506, 188 of the Indian Penal Code and under sections 3, 25 of Arms Act and sections 37(1)(3) of Maharashtra Police Act.

2. FIR is lodged by Mahesh @ Bala Nandulal Baisane alleging that on 18.10.2023 at about 9.00 p.m., informant, his brother Arvind and others went to *Swami Kute Mandal* for watching *dandiya* festival. Accused who were present there, were spitefully looking at them. At about 10.30 p.m., accused Prashik abused informant's brother Arvind, CCL threatened him and accused Dadu Kapoor caught his collar, but the dispute was settled there. Then they returned home. Thereafter, at about 11.00 p.m., CCL called informant and his brother at *Shani* temple for resolving dispute. Accordingly, informant and his brother Arvind and others went there. CCL, Dadu Kapoor and Prashik and their 8-10 friends were present there and were discussing. CCL slapped informant's brother, hence informant tried to intervene but Dadu pushed him aside and CCL made him fall down. Informant's friend Chetan Sonar came to rescue him. CCL tried to assault informant with chopper, others controlled him. Prashik held informant's brother from backside and CCL gave a blow of chopper on his stomach. When informant and other tried to flee away, CCL took out a pistol from his waist and fired one round in the air and second round towards informant. Informant saved himself. Thereafter, Dadu Kapoor also took out pistol from his waist

and fired one round towards informant. Informant saved himself. Thereafter, all the accused persons fled from the spot.

3. Heard learned senior advocate for applicants and learned APP for respondents – State. Perused the investigation papers.

4. Learned senior advocate for applicants submits that injured has given a statement that he does not know as to who has assaulted him. No empty cartridges are found on the spot by investigating agency. Therefore, allegations of use of firearms and firing rounds made against CCL and other applicant Dadu Kapoor are unbelievable. He submits that injured himself has not supported the allegations made in FIR. *Prima facie*, there is no material connecting applicants to the present crime, therefore both the applicants may be granted anticipatory bail.

5. Learned APP, on the other hand, by relying on investigation papers, strenuously opposed the applications.

6. In the FIR, specific role is attributed to CCL that while accused Prashik caught informant's brother Arvind from behind, CCL has given blow of chopper on his stomach. He then pulled out a pistol and fired one round in the air and second round towards informant. Thereafter, applicant Dadu

also fired one round from his pistol towards informant. Two eye witnesses have supported the allegations made in the FIR and they have stated that they have witnessed CCL assaulting Arvind with chopper and using firearm. They have also confirmed use of firearm by Dadu.

7. Arvind has suffered stab injury in left lumbar region, due to which his omentum is exposed. He was required to be operated immediately.

8. Specific role is attributed to three accused persons in the FIR, accused no.1 is CCL, accused No.2 is Dadu-applicant in anticipatory bail application no.2078/2023 and accused no.3 Prashik was arrested on 22.10.2023 and as per instructions received by learned senior advocate, he is released on bail. Fact remains that nothing is recovered from him.

9. Weapons used in the crime i.e. chopper and two pistols are yet to be recovered from applicants. Complicity of applicants is made out from the investigation papers, their custodial interrogation is necessary for recovery of chopper and firearms used in the crime.

10. Considering the gravity of offence this is not a fit case to exercise discretion in favour of applicants. Both the applications are therefore rejected.

[NITIN B. SURYAWANSHI]
JUDGE