

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1538 OF 2024**

Rajwardhan Babaso Patil	...	Applicant
vs.		
The State of Maharashtra and another	...	Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1523 OF 2024**

Prabhakar Govind Kurane	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

**WITH
INTERIM APPLICATION NO. 2373 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 1523 OF 2024**

Mr. Sanjeev Kadam, i/b. Amruta Devkat for applicant in ABA/1538/24.

Mr. Panchshil Patil for applicant in ABA/1523/24.

Mr. Aditya Raktade for respondent No.2-Intervenor in IA/2373/24.

Mr. Kiran C. Shinde, APP for respondent-State.

Mr. B. B. Patil, API, Wadgaon Police Station, District Kolhapur.

CORAM : MANISH PITALE, J.

DATE : 24th JULY, 2024

P.C. :

. Heard learned counsel for the applicants and the learned APP for the respondent-State.

2. The applicants are apprehending arrest in connection with FIR No.0297 of 2024 dated 11.05.2024 registered at Police Station Vadgaon,

District Kolhapur for offences under Sections 307, 143, 147, 148, 149, 323, 336 and 120-B of the Indian Penal Code, 1860 (IPC) and Section 135 of the Maharashtra Motor Vehicles Rules, 1989.

3. The incident in question is said to have taken place on 11.05.2024, wherein the victim suffered brutal assault due to which he was seriously injured and on that basis, the offences have been registered, including offence under Section 307 of the IPC.

4. The learned counsel for the applicant Rajwardhan Patil in Anticipatory Bail Application No.1538 of 2024 submits that even if the statement of the informant is to be taken into consideration, presence of the said applicant at the actual place and time of the assault is not even alleged. It is submitted that prior to the incident of assault, a meeting had taken place for resolving disputes between two groups, wherein the said applicant was present. But subsequently, when the talks did not materialize into an agreement to resolve the disputes, the applicant left the place of meeting and his involvement is only to that extent. It is submitted that as regards the criminal antecedents alleged against the said applicant, he is acquitted in all the cases, except three cases. It is submitted that being a political activist, this Court may take into consideration the fact that the cases have been registered against the applicant due to enmity.

5. The learned counsel for the applicant Prabhakar Govind Kurane in Anticipatory Bail Application No.1523 of 2024 submits that even though the applicant has been named as one of the persons present at the time when the assault was carried out, no overt act is alleged against the said applicant and it is not even alleged that he was armed with any weapon. On this basis, it is

submitted that since the applicant is ready to co-operate with the investigation, this Court may allow the present applications.

6. On the other hand, the learned APP vehemently opposed the prayer made in the present applications. Insofar as applicant Rajwardhan is concerned, it is submitted that even if the said applicant is not named as one of the persons present at the time when the assault was carried out, investigation has revealed that the said applicant was in constant touch with the applicant Prabhakar Kurane, who was present at the time and place of the incident. It is alleged that the said applicant Rajwardhan had sent his boys at the place of the incident when the assault was carried out.

7. As regards applicant Prabhakar Kurane, it is submitted that his presence is very much established by the statement of the informant itself and since provisions of unlawful assembly are invoked in the present case, the presence of the said applicant is enough to implicate him in the present case.

8. The learned APP has emphasized upon the criminal antecedents of both the applicants, while opposing the present applications.

9. The aspect of criminal antecedents would be required to be taken into consideration, only if the material on record *prima facie* indicates the involvement of the applicants in the assault, which led to serious injuries to the victim.

10. A perusal of the statement of the informant, leading to registration of FIR, shows that the events that occurred on 11.05.2024 are described in two parts. The first part pertains to the time period starting from 01:30 p.m.

onwards, when a meeting was allegedly organized between the two warring groups, in order to resolve the disputes. The applicant Rajwardhan has been specifically named as a person present during the course of the said meeting. It is stated that the meeting did not result into resolution of disputes and thereafter, the persons attending the meeting for the rival groups appear to have dispersed.

11. The second part of the statement of the informant pertains to the incident of assault that allegedly took place at 03:20 p.m. In this portion of the statement, the applicant Rajwardhan is not even named as one of the persons present. The name of the applicant Prabhakar is specifically mentioned. But, it is relevant to note that other than stating that the said applicant Prabhakar was present at about 03:20 p.m., when the incident of assault took place, no specific overt act is attributed to the said applicant. While the informant has stated in detail as to which of the accused persons were armed with which weapon, there is no reference to the applicant Prabhakar as a person armed with any weapon, much less alleging any overt act on his part, which resulted in serious injuries to the victim.

12. Considering the aforesaid material, this Court is unable to agree with the learned APP that both the applicants could be said to be directly involved in the actual assault carried out on the victim, only on the basis of the fact that they were in constant touch with each other on mobile, while the incident was taking place. Therefore, the applicants have made out a *prima facie* case in their favour.

13. As noted hereinabove, the question of taking into consideration the criminal antecedents would arise, provided *prima facie* involvement of the

applicants could be shown on the basis of the material on record. Therefore, the said aspect is not being commented upon by this Court.

14. In view of the above, the applications are allowed in the following terms:

- (i) In the event the applicants are arrested in connection with FIR No.0297 of 2024 dated 11.05.2024 registered at Police Station Vadgaon, District Kolhapur, they shall be released on bail on furnishing PR Bonds of ₹ 50,000/- each with one or two sureties in the like amount to the satisfaction of the trial Court;
- (ii) the applicants shall remain present before the Investigating Officer on 26.07.2024 and 27.07.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when the Investigating Officer calls upon them to remain present;
- (iii) the applicants shall not tamper with the evidence of the prosecution in any manner. They shall not influence the informant, witnesses and other persons concerned with the case;
- (iv) the applicants shall co-operate with the investigation and also in the proceedings before the trial court.

15. In the event, the applicants violate any of the conditions specified in this order, it shall be liable to be cancelled.

16. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail applications and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

17. The applications stand disposed of.

18. In view of the disposal of the Anticipatory Bail Application No.1523 of 2024, the intervention application also stands disposed of.

(MANISH PITALE, J)

Priya Kambli