

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2203 OF 2024**

1. Dashrath Ramchandra Subnaval,		
2. Suvarna Dashrath Subnaval,		
3. Satish Dashrath Subnaval,		
4. Geetanjali Satish Subnaval,		
5. Varsha Mugutrao Koli	...	Applicants
vs.		
The State of Maharashtra	...	Respondent

Mr. R. B. Mokashi a/w. Ms. Shivani R. Mokashi for applicants.

Mr. Bapu V. Holambe-Patil, APP for respondent-State.

Mr. A. S. Bansode, HC, Sangola Police Station, District Solapur Rural.

CORAM : MANISH PITALE, J.

DATE : 27th AUGUST, 2024

P.C. :

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

2. At the outset, the learned counsel for the applicants submits that applicant No.1 Dashrath Ramchandra Subnaval was arrested and granted regular bail and hence, his name will have to be deleted in the present application.

3. Leave is granted to the applicant to delete the name of applicant No.1 forthwith. The amendment be carried out during the course of the day.

4. Consequently, the learned counsel for the applicants addressed this Court insofar as applicant Nos.2 to 5 are concerned. He submitted that in the present case, a significant factor is registration of a report of non-cognizable offence (N.C.R.) on 29.05.2024 about an incident dated 28.05.2024 at about 23:30 hours, wherein the husband of applicant No.5, who is also arraigned as an accused in the present case, was the informant. It can be demonstrated that registration of FIR is a counterblast and an after-thought. The informant herein i.e. Vikas Baban Koli is the brother-in-law of applicant No.5. It is submitted that there is a dispute between the brothers in the context of a petrol pump.

5. It is further submitted that the FIR in the present case is belated, for the reason that it was registered on 03.06.2024 for a purported incident dated 28.05.2024 at 21:00 hours. It is submitted that general and omnibus allegations are made against the accused persons about the assault on the informant and others. The injury certificates also render the incident doubtful, as the timings mentioned in the said injury certificates create a serious doubt about the actual occurrence of the incident and its date and time. It is submitted that the applicants are ready to co-operate with the investigation and therefore, this Court may consider allowing the present application.

6. On the other hand, the learned APP tendered the investigation papers for perusal of this Court. Attention of this Court is invited to the statement of the first informant, recorded on 29.05.2021 itself by the Police Constable, when the informant was undergoing treatment in Ashwini Hospital for the injuries suffered by him. It is submitted that the injury certificates indicate that initially, the injured informant was treated in a particular hospital and

referred to a higher centre for treatment. Thereupon, the informant was treated at Ashwini Hospital, which has issued detailed injury certificate, indicating the number of injuries suffered by the informant during the course of the incident. It is submitted that the presence of the applicants is clearly made out from the statement of the informant and overt acts are attributed to applicant Nos.3 and 5.

7. This Court has perused the material on record. There is no doubt that N.C.R. was registered on 29.05.2024 at the behest of Mugutrao Baban Koli, who is arraigned as an accused in the present FIR. It does indicate that the genesis of the allegations made by the parties against each other, is a dispute about property/petrol pump amongst the brothers. Nevertheless, merely because N.C.R. was registered prior in point of time, cannot *ipso facto* render the injury certificates doubtful.

8. Insofar as delay in registration of FIR is concerned, the investigation papers, particularly statement of the informant recorded on 29.05.2024, *prima facie* indicate that the FIR cannot be said to be belated.

9. The contents of the statement of the informant, leading to registration of FIR show that presence of the applicants is indeed mentioned. But, it appears that there is no specific allegation against applicant No.2 Suvarna Dashrath Subnaval and applicant No.4 Geetanjali Satish Subnaval. General and omnibus allegations are made against the said two applicants.

10. As regards applicant No.3 Satish Dashrath Subnaval, specific allegation of assault by means of sickle and stick is made against the said applicant. A perusal of the detailed injury certificate issued by Ashwini Hospital on

07.06.2024, shows that the informant suffered as many as 10 injuries on his body, one of which is classified as grievous injury, while the other are classified as simple injuries. The description of overt act of the said applicant co-relate with the injuries found on the body of the informant and to that extent, the presence of the applicant and his role can be *prima facie* made out.

11. As regards the applicant No.5 Varsha Mugutrao Koli, an overt act is attributed to her i.e. causing injury to the informant on the left leg by means of paver block. The aforesaid injury certificate shows that the said injury is a simple injury.

12. In view of the above, this Court is inclined to allow the application insofar as the applicant No.2 Suvarna Dashrath Subnaval and applicant No.4 Geetanjali Satish Subnaval, are concerned. Although specific overt act is attributed to applicant No.5 Varsha Mugutrao Koli, at worst, the nature of injury attributable to her role is a simple injury on the leg of informant. The said applicant being a woman, this Court is inclined to favourably consider the prayer made by the said applicant also.

13. Insofar as applicant No.3 Satish Dashrath Subnaval, in view of the observations made hereinabove about his role and the nature of injuries caused to the informant, indicating that sickle and stick were used by him in carrying out the assault, the application insofar as the said applicant is concerned, will have to be dismissed.

14. In view of the above, the application is disposed of as follows:

(i) The prayer of applicant No.3 Satish Dashrath Subnaval for grant of

anticipatory bail is rejected.

- (ii) In the event the applicant No.2 Suvarna Dashrath Subnaval, applicant No.4 Geetanjali Satish Subnaval and applicant No.5 Varsha Mugutrao Koli, are arrested in connection with FIR No.0436 of 2024 dated 03.06.2024 registered at Sangola Police Station, District Solapur Rural, they shall be released on bail on furnishing PR Bonds of ₹ 15,000/- each with one or two sureties in the like amount to the satisfaction of the trial Court.
- (ii) The aforementioned applicant Nos.2, 4 and 5 shall remain present before the Investigating Officer 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 application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

17. The application stands disposed of.

(MANISH PITALE, J)