

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

ANTICIPATORY BAIL APPLICATION NO. 2401 OF 2024

1. Sushma w/o Namdev Gadhave	
2. Monali w/o Kiran Gadhave	
3. Laxmi w/o Jitendra Gadhave	
4. Kartiki d/o Jitendra Gadhave	
5. Jaishree w/o Shridhar Bhadalkar	... Applicants
Versus	
The State of Maharashtra & Ors.	... Respondents

Mr. Avinash Salve a/w Mr. Vivek Thakare for the Applicants.
Mr. Sagar R. Agarkar, APP for Respondent No.1-State.

CORAM: MANISH PITALE, J.
DATE : 10th SEPTEMBER 2024

P.C. :

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

2. The applicants have approached this Court as they are apprehending arrest in connection with FIR No. 0259 of 2022 dated 15th July 2022 registered at Wai Police Station, Dist. Satara, for offences under Sections 192, 196, 323, 341, 379, 380, 394, 395, 427, 504 and 506 read with 34 of the Indian Penal Code, 1860 (IPC).

3. The FIR was registered on the basis of the application lodged with the Judicial Magistrate under Section 156(3) of the

Code of Criminal Procedure, 1973 (Cr.P.C.). It appears that the contents of the FIR are nothing but reproduction of the application moved before the Magistrate.

4. The informant has named number of accused persons, including the applicants, who are all females. The incident in question concerns a shed belonging to the informant, which was allegedly attacked and destroyed by the accused persons in the backdrop of a property dispute between the informant and his brother Namdev, who was also arraigned as accused. This Court is informed that thereafter, the said Namdev has expired.

5. The learned counsel for the applicants submits that all the applicants are females, one of whom is a young girl aged about 11 years. General and omnibus statements are made by the informant in the backdrop of the property dispute and no specific overt act is attributed to the applicants. It is submitted that the applicants were available throughout at their residences, but they were never apprehended. Recently, another female co-accused person was arrested. She was granted regular bail within three days of her arrest. In this backdrop, the applicants are apprehending arrest and they are constrained to move this Court.

6. The learned APP submits that the statement of the informant describes in detail the incident in question and all the accused persons have been named. He submits that since the Investigating Officer is not available today, he is unable to make any statement,

as to why the Police could not apprehend the applicants till date and as to whether the applicants were absconding.

7. It is undisputed that all the applicants before this Court are females. Applicant Nos.1 and 5 are senior citizens, aged about 65 years, while applicant No.4 is a young girl aged about 11 years. Applicant Nos.2 and 3 are women, who are also arraigned as accused persons.

8. Considering the statement of the informant, which led to registration of the FIR, *prima facie*, it appears that the informant has roped in all the members of the family, including women and even applicant No.4, a girl child of about 11 years age, in the backdrop of a bitter family/property dispute between the informant and the now expired Namdev. The said Namdev was the brother of the informant.

9. In such cases, it is often seen that the incident in question and the role attributed to the accused is stated in an exaggerated manner. It is also relevant to note that a civil suit is pending, wherein the informant is the plaintiff and the applicant No.1 is defendant No.2. She is widow of the now expired accused-Namdev, who was the brother of the informant. Considering these facts, this Court is of the opinion that the applicants have made out a case for granting them relief.

10. At the same time, there is no clarity as what prevented the

Police from apprehending the applicants, if at all their custody was required. Given the background of the case and the fact that the applicants have not been apprehended, even after two years and two months of registration of the FIR, coupled with the fact that the applicants are females against whom no specific overt act is alleged, this Court is inclined to allow the present application.

11. In view of the above, the application is allowed in the following terms :

(a) In the event the applicants are arrested in connection with FIR No. 0259 of 2022 dated 15th July 2022 registered at Wai Police Station, Dist. Satara, they shall be released on bail on furnishing PR Bond of Rs.10,000/- each and one or two sureties in the like amount to the satisfaction of the trial Court.

(b) The applicants shall cooperate with the investigation and shall remain present before the Investigating Officer as and when required by the Investigating Officer.

(c) The applicants shall not tamper with the evidence of the prosecution in any manner. They shall not influence the informant, witnesses or any other person concerned with the case.

12. Needless to say, violation of any of the aforesaid conditions

would make the applicants liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicants in the present application.

13. The application is disposed of.

MANISH PITALE, J.