

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2714 OF 2023

Ashwin Ashok Waghmare and Anr. ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr. Pranav H. Bhoite, for the Applicants.
Ms. Supriya Kak. APP, for the Respondent/State.
API S.B. Gatkul, Daund Police Station.

CORAM : N. J. JAMADAR, J.
DATE : MARCH 26, 2024

P.C.:

1. Heard the learned counsel for the applicants and the learned APP for the State.
2. By an order dated 27th September, 2023, this Court had granted interim relief, observing, *inter alia*, as under:

“4) The learned Counsel for the applicants submitted that the first informant had assaulted the applicants. A FIR being CR No. 798 of 2023 was lodged in respect of the very same occurrence. The first informant had been indulging in various offences and a number of crimes have been registered against him. On account of political rivalry the applicants have been falsely roped in.

5) I have perused the injury certificate. The question as to whether the first informant sustained a grievous injury, prima facie, appears to be debatable. There is material to indicate that the applicant has lodged FIR against the first informant. In respect of the very same occurrence two versions have been reported. Prima facie, there seems to be a rivalry between the applicants and the first informant.

6) In the aforesaid view of the matter, I am inclined to grant interim protection while directing the applicants to join in the investigation.”

3. The learned counsel for the applicants submits that the applicants have cooperated with the investigation and appeared before the investigating officer, as and when called.

4. The learned APP, without disputing the position that the applicants appeared before the investigating officer, submits that the applicants have not rendered necessary cooperation during the course of investigation. Therefore, the applicants do not deserve pre-arrest bail. The learned APP submitted that there are antecedents of applicant No.1.

5. The learned counsel for the applicants joined the issue by submitting that the first informant has criminal antecedents and as many as 18 crimes have been registered against the first informant.

6. I have perused the material on record as well as the investigation papers. Prima facie, an offence punishable under Section 307 of the Indian Penal Code does not seem to have been made out. Therefore, at this length of time, the further custodial interrogation, does not seem warranted and, therefore, the order of interim bail deserves to be made absolute.

7. The order of interim bail dated 27th September, 2023 is made absolute on the terms and conditions incorporated therein.
8. The Applicants shall henceforth appear before the investigating officer, as and when directed, till the filing of the charge-sheet.
9. The applicants shall regularly attend the proceedings before the jurisdictional Court.
10. Application disposed.

(N. J. JAMADAR, J.)