

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

ANTICIPATORY BAIL APPLICATION NO. 3637 OF 2023

1. Narendra Janardan Tupe
2. Sachin Eknath Dalvi ..Applicants
Versus
The State of Maharashtra ..Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 3640 OF 2023**

Nitesh Suresh Meher ..Applicant
Versus
The State of Maharashtra ..Respondent

Ms. Priyanka Dubey a/w. Lavanita Chityala a/w. Shirish Desai a/w.
Kavisha Khanna i/b. Hedgehog and Fox LLP for Applicant.
Ms. S. S. Kaushik, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 03 JANUARY 2024

P.C. :

1. Both these applications are decided by this common order because they arise out of the same subject matter involving the same offence.

2. The Applicants are seeking anticipatory bail in connection with C.R.No.550 of 2023, registered at Kalyan Taluka

Police Station, Thane Rural, under sections 307, 324, 323, 143, 147, 148, 149 and 447 of the Indian Penal Code and under sections 37 and 135 of the Maharashtra Police Act.

3. Heard Ms. Priyanka Dubey, learned counsel for the applicants and Ms. Sharmila Kaushik, learned APP for the State.

4. The F.I.R. is lodged by one Vikas Shukla. He was in the construction business with his partners. One Sandip Tare used to supply building material to him since January 2023. However, since the informant was not agreeable to the higher rate quoted by him, he had stopped taking the material from him. There was some dispute about the exact payment which was due and payable.

5. On 12.09.2023, at about 5.00p.m. the informant and his partners met at Kalas Darshan site at Titwala (E). The informant and Ajay waited at the site. The other persons went away to have a look at the site. At 5.30p.m. one four wheeler and 5 to 6 motorcycles came in front of his office. About 10 to 12 persons got down from their vehicles. The F.I.R. mentions name of

Sandip Tare and Nitesh Meher as the persons who were amongst those who had come there. The accused Sandip Tare started assaulting the informant with kicks and fist blows. It is alleged that, Sandip picked up an iron rod lying at the spot and gave a blow on the head of one Pradipsingh who suffered injury on the head. The others assaulted with kicks and fist blows. It is specifically alleged that the applicant Nitesh picked up an iron rod and gave two blows on the leg of Rahul. The other 10 to 12 persons assaulted with kicks and fist blows, as well as, with wooden sticks. On this basis the F.I.R. was lodged.

6. Learned counsel for the applicants submitted that the dispute was between Sandip Tare and the first informant. The others including the applicant Nitesh had nothing to do with that dispute. There was no premeditation on the part of the accused. The incident had taken place on the spur of moment. The accused Sandip had gone to the spot for collecting his money and asking for his dues. Therefore, others cannot be held responsible for the act committed by Sandip. She submitted that, there is no specific role attributed to these applicants. Though, there are allegations

that the applicant Nitesh had used an iron rod, she submitted that, these allegations are not true.

7. Learned APP opposed these applications. She submitted that, there are photographs of the incident in which the applicants Sachin and Narendra are seen. She submitted that, Nitesh is attributed specific role of assaulting Rahul with an iron rod. Therefore, anticipatory bail should not be granted to the applicants.

8. I have considered these submissions. As rightly submitted by the learned counsel for the applicants, there does not appear to be common intention or object. The accused had not gone to the spot with weapons. The accused Sandip had picked up a rod lying at the spot and had used it. Therefore, it cannot be assumed that others had knowledge about his intention. As far as the applicants Narendra and Sachin are concerned, no specific weapons are attributed to them and there are only general allegations against them. As far as, Nitesh is concerned, he is attributed specific role of assaulting one Rahul. The injury certificate of Rahul shows that, he

had suffered CLW over his right thigh measuring 3cm x 1cm x 1cm. This injury is not described as grievous injury. It appears to be a simple injury. Therefore, in this background, custodial interrogation of the applicant Nitesh is also not required.

9. Considering this discussion, all these three applicants deserve protection of anticipatory bail order.

10. Hence, the following order :

ORDER

- i) In the event of arrest of the applicants Narendra Janardan Tupe, Sachin Eknath Dalvi and Nitesh Suresh Meher in connection with C.R.No.550 of 2023, registered at Kalyan Taluka Police Station, Thane Rural, the applicants are directed to be released on bail on their furnishing P R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.
- ii) Both the Applications are disposed of.

(SARANG V. KOTWAL, J.)