

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1891 OF 2024**

Shubham Somnath Yadav and Akash Annarao Vakale ... Applicants

vs.

The State of Maharashtra ... Respondent

Mr. Prashant Subhash Hagare for applicants.

Mr. Balraj Balkrishna Kulkarni, APP for respondent-State.

Mr. S. B. Kale, Head Constable, Vadgaon-Maval Police Station, District Pune Rural.

CORAM : MANISH PITALE, J.

DATE : 22nd JULY, 2024

P.C. :

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

2. By this application, the applicants are seeking relief from this Court as they apprehend arrest in connection with FIR No. 0183 of 2024 dated 03.04.2024 registered at Vadgaon-Maval Police Station, District Pune Rural, for offences under Sections 363, 511 and 323 read with Section 34 of the Indian Penal Code, 1860.

3. The applicants were not named in the FIR. Only one person Deepak Gaware was named and as per the allegations made by the informant, it was recorded that three unknown persons alongwith the said Deepak Gaware, are responsible for the incident in question.

4. According to the informant, when he visited a restaurant at about 05.30 p.m. on 02.04.2024, certain persons made an attempt to abduct him and in that process, during the scuffle, upon intervention by other persons at the place of the incident, the attempt at abduction met with failure. Deepak Gaware was apprehended on the spot, while the other accomplices escaped. It is alleged that the applicants were two of the three persons assisting Deepak Gaware to carry out the aforesaid activity.

5. The learned counsel for the applicants submitted that there is nothing to connect the applicants with the incident in question. It is submitted that merely because the Investigating Officer wants the informant to identify the accused persons, it cannot be said that a ground is made out for seeking custody. It is further submitted that the Sessions Court erred in holding that custody of the applicants is required as details of the number plates of motorcycles allegedly used in the offence and further details of their disposal, are to be ascertained.

6. The learned APP submitted that the statements of eye-witnesses have been recorded, who have corroborated with the manner in which the informant has described the incident and that it can be said that applicant No.1 is the main accused person in the present case.

7. This Court has considered the material on record. The informant has named only Deepak Gaware, further stating that the three unknown persons accompanied him on the date of incident. The applicants are evidently not named in the FIR.

8. The Sessions Court has observed that custody of the applicants is required to ascertain as to in what manner the number plates of motorcycles allegedly used in the incident, were disposed of. It appears that certain motorcycles were found abandoned at the spot of the incident and the investigating authority concluded that the motorcycles were used by the accused persons at the time of the incident.

9. Considering the material available on record, including the statement of the informant leading to registration of FIR and the statements of the eye-witnesses recorded during the course of investigation, *prima facie* there does not appear to be anything to connect the applicants with the incident in question. It cannot be said that the custody of the applicants is necessary only for the purpose of the informant identifying the accused persons. A perusal of Section 437 of Code of Criminal Procedure, 1973 makes it clear that only for the purpose of ascertaining the identity of the accused, it cannot be insisted that custody of the accused persons is necessary.

10. As regards details of number plates of motorcycles that were disposed of, this Court is of the opinion that there does not appear to be enough material to connect the applicants with the aforesaid motorcycles. In any case, the applicants undertake to co-operate with the investigation. It is to be noted that Deepak Gaware has been already granted bail by the Sessions Court by order dated 12.04.2024. Therefore, this Court is inclined to allow the present application.

11. In view of the above, the application is allowed in the following terms:
(i) In the event the applicants are arrested in connection with FIR No. 0183 of 2024 dated 03.04.2024 registered at Vadgaon-Maval Police Station,

District Pune Rural, they shall be released on bail on furnishing PR Bonds of ₹ 25,000/- 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 24.07.2024 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.

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

13. 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.

14. The application stand disposed of.

(MANISH PITALE, J)

Priya Kambli