

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

ANTICIPATORY BAIL APPLICATION NO. 2001 OF 2024

1. Pravin Uttamrao Wadghule
2. Shubham @ Vishal Harubhau Wadghule ... Applicants
Versus
The State of Maharashtra ... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 2002 OF 2024

Pappu @ Chetan Sudhakar Nirbhavane ... Applicants
Versus
The State of Maharashtra ... Respondent

Mr. Nilesh Wabale a/w Ms. Rutuja Khatmode i/by Mr. Umesh Mankapure for the Applicant.

Mr. Balraj. B. Kulkarni, APP for Respondent-State in ABA/2001/2024.

Ms. Megha S. Bajoria, APP for Respondent-State in ABA/2002/2024.

Mr. Anand Patane, PSI, Niphad Police Station, Dist. Nashik.

**CORAM: MANISH PITALE, J.
DATE : 30th JULY 2024**

P.C. :

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

2. The applicants are apprehending arrest in connection with FIR No. 0191 of 2024 dated 17th June 2024 registered at Niphad Police Station, Dist. Nashik, for offences under Sections 395, 120-

B, 342, 323, 504, 506 and 427 of the Indian Penal Code, 1860 (IPC).

3. The applicants are named as accused persons by the informant, on whose statement the FIR was registered. The incident is described by the informant, who is in the service of a contractor, who is awarded the contract of excavation of sand. It is alleged that on the date of the incident, the accused persons reached the place where the informant and his colleague were on duty. They attacked the cabin where the informant was with his colleague and thereafter, the accused persons took charge of the entire cabin and machinery at the place of the incident. It is alleged that other persons joined the accused persons and throughout the night, they indulged in the activity of illegally taking away sand by means of tractors. In the process, it is alleged that the informant and his colleague were forced into the cabin, which was locked from outside.

4. The learned counsel for the applicants has made the following submissions :

- (a) The FIR is delayed as the incident is said to have taken place on 15th June 2024, while the FIR was registered on 17th June 2024.
- (b) Some of the accused persons, who are residents of the said village, have been approaching various authorities

against the contractor with whom the informant works. In the complaint lodged by some of the accused persons, it has been brought to the notice of authorities that the said contractor is violating the requirements of law and that the said contractor is indulging in illegal excavation of sand, apart from using machinery, which is not permitted, thereby causing nuisance to the villagers.

- (c) It is submitted that on the complaints made by the villagers, the contractor was even made to pay fine.
- (d) In support of the said submissions, certain documents have been tendered across the bar.
- (e) The FIR is, therefore, a counterblast at the behest of the contractor with whom the informant is working.
- (f) It is alleged that ingredients of the offences are not made out against the accused persons.

5. On the other hand, the learned APPs submit that the informant has described in detail the role of the accused persons, particularly the applicants before this Court. It is submitted that the contentions regarding counterblast cannot be considered at this stage, for the reason that roles of the accused persons are sufficiently described in detail and the ingredients of the alleged offences are made out. It is submitted that on the basis of the investigating papers shown to this Court that there is an

eyewitness account of the incident. On this basis, it is submitted that no case is made out for granting anticipatory bail.

6. This Court has considered the statement of the informant, leading to registration of the FIR. The informant has described the entire incident in great details. The role of each of the accused persons is elaborated upon and according to the informant, the activities of the accused persons continued almost throughout the night on 15th June 2024. This Court finds that a specific role is attributed to each of the accused persons and it is also stated that in the illumination created by the lights of the vehicles and tractors used during the course of the incident, the informant could recognize each and every accused person.

7. This Court finds that *prima facie* ingredients of the offences alleged against the applicant are indeed made out.

8. As regards delay in registration of the FIR, explanation is given in the statement of the informant itself to the effect that as the contractor was not available immediately, the Police could be approached after some delay.

9. In any case, the aspect of delay at this stage, is not considered relevant by this Court for considering the prayer for granting anticipatory bail, particularly when the role of each and every accused person is described in detail by the informant.

10. The contentions regarding the FIR being a counterblast is

more in the nature of defence of the applicant and it is not relevant at this stage. In any case, the document tendered across the bar, shows that a general grievance was made by some of the accused persons in respect of the excavation of the sand. It cannot be said that this is a crucial factor, while considering the present application.

11. In view of the above, no case is made out for granting anticipatory bail. The applications are dismissed.

MANISH PITALE, J.