

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2240 OF 2024

1. Shakuntala Bhimrao Kashid
2. Ratan Chatrapati Kashid
3. Jyoti Chatrapati Kashid ... Applicants
Vs.
State of Maharashtra ... Respondent

AND

ANTICIPATORY BAIL APPLICATION NO.2242 OF 2024

1. Bhimrao Sitaram Kashid
2. Vaibhav Bhimrao Kashid
3. Dnyaneshwar Bhimrao Kashid
4. Chatrapati Sitaram Kashid
5. Changdev Sitaram Kashid
6. Santosh Changdev Kashid ... Applicants
Vs.
State of Maharashtra ... Respondent

Mr. Rupesh Atul Zade for Applicants in ABA/2240/2024 and ABA/2242/2024.

Mr. Prasanna P. Malshe, APP for Respondent-State in ABA/2240/2024.

Mr. Kiran C. Shinde, APP for Respondent-State in ABA/2242/2024.

CORAM : MANISH PITALE, J.

DATE : AUGUST 28, 2024

P.C. :

1. The applicants in these two applications are apprehending arrest in connection with FIR No.0228 of 2024 dated 01.06.2024 registered with Walchand Nagar Police Station, District - Pune Rural, for offences under Sections 143, 149, 323, 504 and 506 of the Indian Penal Code, 1860 (IPC), as also under Section 135 of the Maharashtra Police Act, 1951.

2. The applicants in Anticipatory Bail Application No.2240 of 2024 are three women, while the applicants in Anticipatory Bail Application

No.2242 of 2024 are the remaining accused persons, who are males. They all belong to the same family. In fact, the victim also appears to be related to the accused persons. As per the statement of the informant, the incident took place on 30.05.2024 at about 6:00 p.m., when the applicants in Anticipatory Bail Application No.2240 of 2024 reached the place of the incident i.e. agricultural field and started abusing and assaulting the wife of the informant, who was pregnant. At that stage, the applicants in accompanying Anticipatory Bail Application No.2242 of 2024 also reached the place of the incident and they also started indulging in violence. It is claimed that in the process, the informant, his brother and his father were all injured. It is brought to the notice of this Court that the wife of the informant, who was pregnant, subsequently suffered a miscarriage and therefore, offence under Section 316 of the IPC was also added.

3. The learned counsel for the applicants submits that there is an ongoing civil dispute between the parties in respect of the property. The incident in question has taken place in the backdrop of such a civil dispute. It is further brought to the notice of this Court that this is a case of cross-FIRs as FIR No.0226 of 2024 dated 31.05.2024 has also been registered at the very same police station, wherein the alleged victims herein and others are the accused persons. It is submitted that even if the allegations made in the statement of the informant are to be taken on their face value, there is no allegation of use of any weapon. The assault is said to have been carried out by means of fists and kicks. It cannot be stated that the wife of the informant, who was pregnant, was deliberately and intentionally assaulted in such a manner that she would suffer a miscarriage. On this basis, it is submitted that this Court may favourably consider the present applications.

4. On the other hand, the learned APPs appearing in these

applications submit that the presence of all the accused persons is clearly made out by the statement of the informant. It is submitted that the overt acts are attributed to all the accused persons and therefore, this Court may not entertain these applications, particularly because serious offence under Section 316 of the IPC has been subsequently added.

5. This Court has considered the material on record. There are indeed cross-FIRs pertaining to the incident in question. The incident has occurred in the backdrop of the pending civil disputes between the parties before the Competent Civil Court in respect of property. In the present case, it is nowhere alleged against the applicants that any of them used any weapon, much less any dangerous weapon, while carrying out the assault. The allegation pertains to the applicants assaulting by way of fists and kicks and using abusive language. Therefore, there is no question of recovery of weapons from the applicants. As there is a cross-FIR registered with regard to the same incident, it can be said that during the course of the incident, the members of the rival parties assaulted each other, but insofar as the applicants are concerned, even according to the informant, there is no use of weapon attributed to them.

6. Considering the aforesaid material, this Court is inclined to allow the present applications. Accordingly, the applications are allowed in the following terms:-

- A. In the event the applicants are arrested in connection with FIR No.0228 of 2024 dated 01.06.2024 registered with Walchand Nagar Police Station, District - Pune Rural, they shall be released on bail on furnishing PR Bond of Rs.15,000/- [Rupees Fifteen Thousand only] each with one or two sureties in the like amount;
- B. The applicants shall remain present before the investigating

officer between 10:00 a.m. and 12 noon on 30.08.2024 and thereafter as and when called by the investigating officer. They shall co-operate with the investigation;

- C. The applicants shall not, in any manner, contact the informant or his family in any manner during the pendency of the investigation;
- D. The applicants shall not influence the informant, witnesses or any person concerned with the case and they shall not tamper with the evidence.

7. 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 and that the trial Court shall proceed further, without being influenced by the observations made in this order.

8. The applications are disposed of.

(MANISH PITALE, J.)

Minal Parab