

sg

908.aba2272-24.doc

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

ANTICIPATORY BAIL APPLICATION NO.2272 OF 2024

1. Swapnil Sudhakar Mhadase
Age-28 years, Occ.-Farmer,
R/at-Village Gunde, Tal- Shahapur,
District Thane.

2. Mahendra Budhaji Raut
Age- 28 years, Occ.-Farmer,
R/at-Village Gunde, Tal-Shahapur,
District-Thane.

3. Sunil Sudhakar Mhadase
Age- 26 years, Occ.-Farmer,
R/at-Village Gunde, Tal-Shahapur,
District-Thane.

... Applicants

(Ori. Accused Nos. 3 to 5 respectively)

Versus

State of Maharashtra
(Through Kinhavali Police
Station, Tal-Shahapur, Dist.-Thane)

... Respondent

....

Mr Vishal Patil, for the Applicants.

Mr Amit A Palkar, APP, for Respondent State.

PSI LJ Varkute, Kinhavali Police Station, Tal-Shahapur, Dist. Thane,
present.

....

Coram : R.N. Laddha, J.

Date : 13 August 2024

P.C. :

. By the present application, the applicants seek pre-arrest bail in connection with CR No.125 of 2024, registered at Kinhavali Police Station, Thane, for the offences punishable under Sections 326, 341, 143, 144, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code.

2. According to the prosecution, on 13 June 2024, the co-accused, Mohan Vekhande, along with the present applicants and others, unlawfully assembled and blocked the path of the informant and his uncle, who were travelling to Dehene on a motorcycle. The group then attacked them, with Mohan using an iron rod and wooden stick. The applicants verbally abused the informant and his uncle, and physically assaulted them with kicks and punches. The prosecution claims that the motive behind the attack was a long standing feud between the informant and the co-accused, Mohan, rooted in disputes over land ownership.

3. Mr Vishal Patil, the learned Counsel appearing on behalf of the applicants, contends that the applicants were falsely implicated in the present crime due to a pre-existing dispute with Rafiq Shaikh, a friend of the informant. The alleged incident took place on 13 June 2024, but the FIR was not lodged until two days later, on 15 June

2024, without a plausible explanation for the delay. Furthermore, the learned Counsel asserts that the informant's injuries were inflicted by co-accused Mohan, not the applicants. He also emphasized that there is nothing to be recovered from the applicants and they are ready to cooperate with the investigation.

4. Mr Amit A Palkar, the learned Additional Public Prosecutor representing the respondent/State, submits that the applicants, along with co-accused, assembled unlawfully to attack the informant and his uncle. The weapons used in the crime, an iron rod and wooden stick, have not yet been recovered. Given the severity of the attack and the ongoing investigation, granting bail to the applicants would potentially lead to evidence tampering or witness influence.

5. After reviewing the record, it appears that the co-accused Jagannath Patole and Madan Chaudhari were granted anticipatory bail by an order dated 15 July 2024 of this Court. The primary allegations of assault are directed at the co-accused, Mohan, who allegedly used an iron rod and a wooden stick to attack the informant and his uncle. In contrast, the applicants are accused of verbal abuse and minor physical altercations, such as kicking and punching. Notably, the weapons in question were allegedly wielded by Mohan, not the applicants. Moreover, the incident in question occurred on 13 June 2024, and the FIR was lodged on 15 June 2024. These circumstances suggest that the

applicants' arrest in connection with the present crime is not necessary. The prosecution's apprehension about tampering with the evidence and influencing witnesses can be addressed by imposing appropriate conditions. Given the above, this Court is inclined to allow the present application. Hence, the following order:

ORDER

- (i) In the event of arrest, the applicants shall be released on bail in CR No.125 of 2024, registered at Kinhavali Police Station, Thane, on executing a PR Bond of Rs.25,000/- each and furnishing one or more sureties in the like amount.
- (ii) The applicants shall cooperate with the investigation and report to the concerned police station, as and when directed.
- (iii) The applicants, themselves or through any other person, shall not tamper with the evidence or influence any witnesses.

6. The application stands disposed of accordingly.

(R.N. Laddha, J.)