

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

Anticipatory Bail Application No.2448 of 2024

1. Vipul Karsan Bhojaviya
Aged 26 yrs, Occ : service
2. Bharat Bachchubhai Bhojaviya
Aged 49 yrs, Occ : service
3. Santosh Dalsukh Bhojaviya
Aged 36 yrs, Occ : service
4. Mehul Dalsu Bhojaviya
Aged 30 yrs, Occ : service
5. Ajay Bharat Bhojaviya
Aged 26 yrs, Occ : service
6. Kushal Ranjit Champati Rai
Aged 20 yrs, Occ : service

All Add/at, G-109, Gandhi Nagar,
C.O.D. Road, Manchubhai Road,
Malad East, Mumbai 4000 097.

.... Applicants.

v/s

The State of Maharashtra
(through Sr. Inspector of Police,
LT Marg Police Station)

... Respondent

....

Dr Samarth Karmarkar a/w Priti Rita i/by Karmarkar & Associates for
the Applicants.

Mr Amit Palkar, APP, for Respondent/State.

PSI AT Shirke, Nagpada Police Station, is present.

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Coram : R.N. Laddha, J.

Date : 3 September 2024

P.C. :

Heard Dr Samarth Karmarkar, the learned Counsel appearing on behalf of the applicants and Mr Amit Palkar, the learned Additional Public Prosecutor, representing the respondent/State.

2. By this application, the applicants seek pre-arrest bail, in connection with CR No.613 of 2024, registered with LT Marg Police Station, Mumbai, for the offences punishable under Sections 118(2), 189(2), 189(4), 190, 191(2) and 3(5) of the Bhartiya Nyay Sanhita, 2023 (for short 'the BNS').

3. The prosecution alleges that on 27 July 2023, the applicants, along with co-accused, formed unlawful assembly and assaulted the informant and others.

4. Mr Samarth Karmarkar, the learned Counsel appearing on behalf of the applicants, submit that the applicants have been falsely implicated in the present crime. He asserts that the injuries sustained by the victim were actually caused by co-accused Prem Bhojaviya, who has since been arrested and released on bail. Furthermore, there are cross complaints filed by both the applicants and the informant against each other. The injured was already discharged from the hospital on the

same day. Additionally, there is nothing to be recovered from the applicants, and they are willing to abide by the conditions set by the Court.

5. Mr Amit Palkar, the learned Additional Public Prosecutor, representing the State, submit that the applicants along with co-accused, assembled unlawfully with the intention of assaulting the informant and others. The learned APP, however, acknowledges that the weapon used by the co-accused has been recovered and the investigation is almost complete.

6. After reviewing the record, it appears that the primary allegations of assault are directed at the co-accused, Prem Bhojaviya, who allegedly used kada/bracelet to assault the informant and the witnesses. The co-accused Prem Bhojaviya was arrested and released on bail. The applicants are accused of beating the informant and others with fists and kick blows. The weapon in question, kada/bracelet, was allegedly wielded by co-accused, not the applicants. The investigation is on the verge of completion, and nothing is to be recovered or discovered from the applicants. These circumstances suggests 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.

7. In light of 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.613 of 2024, registered with LT Marg Police Station, Mumbai, 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.

8. The application stands disposed of accordingly.

[R.N. Laddha, J.]