

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

ANTICIPATORY BAIL APPLICATION NO. 2454 OF 2024

1. Tukaram Dnyandeo Kharat
2. Rushikesh Kailas Devkar
3. Bala @ Swapnil Baban Waghmode ...Applicants

Versus

The State of Maharashtra ...Respondent

- Mr. Ganesh Bhujbal, for Applicant.
- Mr. Tanveer G. Khan, APP for Respondent.
- Mr. Mithapalli, PSI, Walchandnagar Police Station.

CORAM : MANISH PITALE, J.

DATE : 13th SEPTEMBER, 2024

P. C. :

1. Heard, Mr. Bhujbal, learned counsel for the applicants and Mr. Khan, learned APP for the respondent – State.

2. The applicants are apprehending arrest in connection with First Information Report No.0226 of 2024, dated 31.05.2024 registered at Police Station Walchandnagar, District Pune (Rural), for the offences under Sections 307, 329, 326, 354, 324, 341, 427, 323, 504, 506, 143, 147, 148 and 149 of the Indian Penal Code (IPC) and Section 135 of the Maharashtra Police Act.

3. The applicants are 3 accused persons concerning the said FIR, in which 12 accused persons were named and 5 unknown persons were said to be involved in the incident in question. The statement of the informant

describes the incident, stating the presence of the accused persons and attributing roles to them. The applicants are indeed named in the FIR.

4. The learned counsel for the applicants submits that 3 co-accused persons were granted anticipatory bail by this Court by order dated 28.08.2024 passed in Anticipatory Bail Application No.1924 of 2024.

5. It was further brought to the notice of this Court that this is a case of cross-FIRs, as one of the accused in the present FIR was the informant therein. It was further stated that the informant in the present case has been arraigned as accused in the cross-FIR. It is further submitted that the parties are related to each other and there is a property dispute in respect of which civil suit is pending before the Competent Civil Court. This Court took into consideration the aforesaid aspect while granting anticipatory bail to a number of co-accused persons in the cross-FIR, by order dated 28.08.2024, passed in Anticipatory Bail Application Nos. 2240 of 2024 and 2242 of 2024. On this basis, it is submitted that this Court may consider allowing the present application, as the applicants undertake to cooperate with the investigation.

6. The learned APP, on the other hand has opposed the prayer, submitting that parity cannot be claimed with the co-accused in Anticipatory Bail Application No.1924 of 2024, as the role attributed to the said accused persons is distinguishable from that of the applicants in the present

application. It is submitted that the presence and active role of the applicants is clearly made out by the statement of the informant, leading to registration of the FIR. It is further submitted that applicant No.1 Tukaram Dnyandeo Kharat has criminal antecedents, in as much as 4 FIRs have been registered against him between years 2016 to 2023, including serious offence under Section 307 of the IPC.

7. This Court has considered the rival submissions. The fact that a civil dispute is pending between the rival parties has been taken note of by this Court in the order dated 28.04.2024, while allowing Anticipatory Bail Application Nos.2240 of 2024 and 2242 of 2024, concerning accused persons in the cross-FIR. The material on record, including copy of the plaint concerning pending civil suit before the Competent Civil Court, does indicate that the incident in question appears to have occurred in the backdrop of a civil dispute between the parties. There appear to be the two versions to the incident that is said to have taken place.

8. Nonetheless, this Court cannot ignore the allegations leveled by the informant herein as against the applicants concerning the incident in question. A perusal of the statement of the informant does show that the presence of all the three applicants is mentioned, but it is significant to note that overt act of launching assault on the victim along with certain other

named accused persons is specifically alleged against applicant No.1 Tukaram Dnyandeo Kharat. The allegation is that he was present at the spot of the incident with an iron rod and that he actually assaulted the informant by means of such iron rod, leading to injuries. The injury certificate indeed shows the injuries suffered by the informant. As against this, there is no specific overt act against applicant Nos.2 and 3, although their name has been mentioned in the statement, leading to registration of the FIR. In such cases, involving family disputes pertaining to property, when allegations are made by the rival parties against each other in cross-FIRs, there is indeed a tendency to rope in as many individuals as possible.

9. This Court cannot ignore the criminal antecedents of applicant No.1 Tukaram Dnyandeo Kharat, as pointed out by the learned APP and the fact that there is specific allegation about his presence at the spot of the incident with an iron rod and also a further specific allegation about the said applicant having assaulted the informant by means of the said weapon. Therefore, this Court is inclined to only partly allow the present application. The prayer made on behalf of applicant No.1 Tukaram Dnyandeo Kharat, deserves to be dismissed, while the application can be allowed, insofar as applicant Nos.2 and 3 are concerned.

10. In view of the above, the application is partly allowed in the

following terms :

- (A) The prayer for anticipatory bail of applicant No.1 Tukaram Dnyandeo Kharat, is rejected.
- (B) In the event the applicant No.2 Rushikesh Kailas Devkar and applicant No.3 Bala @ Swapnil Baban Waghmodeare arrested in connection with FIR No.0226 of 2024, dated 31.05.2024 registered at Police Station Walchandnagar, District Pune (Rural), they shall be released on bail, on furnishing PR Bonds of ₹ 15,000/- each and one or two sureties in the like amount.
- (C) The applicant No.2 Rushikesh Kailas Devkar and applicant No.3 Bala @ Swapnil Baban Waghmodeare, shall remain present before the Investigating Officer on 18.09.2024, between 10:00 a.m. and 12:00 noon and thereafter as and when called by the Investigating Officer.
- (D) The applicants shall not tamper with the evidence in any manner. They shall not influence the informant, witnesses or any other persons concerned with the case.

11. Needless to say, violation of any of the aforesaid conditions may lead to cancellation of the present order.

12. 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.

13. The application is disposed of.

(MANISH PITALE, J.)