

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3090 OF 2024

Shivaji Ankush Waghmare ... Applicant
Vs.
State of Maharashtra ... Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.3097 OF 2024

Sagar Shivaji Waghmare ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Vikas Shivarkar a/w Kasshabh Male for applicant
Mr. Sagar R. Agarkar, APP for Respondent-State in ABA/3090/24
Mr. Mayur S. Sonavane, APP for Respondent-State in ABA/3091/24

CORAM : MANISH PITALE, J.
DATE : NOVEMBER 21, 2024

P.C. :

. Heard learned counsel appearing for the applicant, and learned APPs for State.

2. Both the applicants are apprehending arrest in connection with FIR No.0535 of 2024 dated 21/09/2024 registered at Akluj Police Station, District- Solapur, for offences under Sections 118(1), 115(2), 352, 351(2), 351(3), 189(2), 191(2), 191(3) and 190 of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. The informant in the present case has referred to the incident that occurred on 20.09.2024 wherein, due to frivolous reason dispute occurred between two groups. It is alleged that the applicants assaulted the victims by all means of koyata and iron rod resulting in injuries.

4. At the outset the learned counsel appearing for the applicant refers to an order dated 11.11.2024 passed by this Court in Anticipatory bail Application No.3035 of 2024 (Navnath Hanumant Mane Vs. State of Maharashtra) whereby, this Court granted anticipatory bail to the accused in the cross FIR, which was registered at the behest of the applicant Sagar Shivaji Waghmare. It was submitted that since there are two FIRs and the FIR registered at the behest of the said applicant was registered prior in point of time, this Court may favourably consider the present applications.

5. It is submitted that both the applicants suffered physical injuries and that applicant Sagar Shivaji Waghmare suffered as many as eight grievous injuries in the incident.

6. It is submitted that both the applicants are ready to cooperate with the investigation and to abide by the conditions that may be imposed by this Court.

7. Both learned APPs strongly opposed the present application submitting that specific overt acts have been alleged against both the accused persons. Use of specific weapons is also mentioned in the statement of the informant, thereby showing that a strong *prima facie* case is made out against the applicant.

8. Having heard the learned counsel for the applicants and the learned APPs, this Court is inclined to allow the applications for the following reasons:

a) This is a case of cross FIRs and there are two versions of the same incident. The applicants in these applications were themselves injured during the course of the incident.

b) The applicant Sagar Shivaji Waghmare is informant in the cross FIR bearing No. 0535 of 2024, which was registered prior in point of time as

compared to the subject FIR.

c) Although, specific allegations indeed have been made against the applicants, it is to be appreciated that there are two versions to the same incident and it is not clear as to which of the parties were the aggressors. In any case, in the incident in question, both the applicants were injured and one of the accused in the FIR registered at the behest of the applicant Sagar Shivaji Waghmare has been granted anticipatory bail by this Court.

9. It is brought to the notice of this Court that the *koyta* allegedly used by applicant Sagar Shivaji Waghmare, has been recovered. The applicants have undertaken to cooperate with the investigation.

10. For the above reasons, the applications are allowed in the following terms:-

- A. In the event the applicants are arrested in connection with FIR No. 0535 of 2024 dated 21.09.2024 registered at Akulj Police Station, District- Solapur, they shall be released on bail on furnishing PR Bonds of Rs.25,000/- each and one or two sureties in the like amount;
- B. The applicants shall remain present before the investigating officer on 25.11.2024 and 26.11.2024 and thereafter, as and when called by the investigating officer. they shall co-operate with the investigation;
- C. The applicants shall not enter the jurisdiction of Akulj Police Station, District- Solapur, till filing of the charge-sheet, except for abiding by the condition (B) herein above.
- D. The applicants shall not influence the informant, witness or any person concerned with the case and they shall not tamper with the evidence.

11. Needless to say, violation of any of the aforesaid conditions would

make the applicant 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 applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

(MANISH PITALE, J.)

Ajit Pathrikar