

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

ANTICIPATORY BAIL APPLICATION NO. 3215 OF 2024

1. Santosh Dattatray Jamune		
2. Roshan Uttham Pandav	...	Applicants
Versus		
The State of Maharashtra & Anr.	...	Respondents

Mr. Santosh Musale for the Applicants.
Mr. Bapu V. Holambe-Patil, APP for Respondent No.1-State.
Mr. Vikas Tiwari i/by Rohit Gupta for Respondent No.2.
Mr. Amar B. Kumbhar, Head Constable, Murgud Police Station,
Kolhapur.

CORAM: MANISH PITALE, J.
DATE : 5th DECEMBER 2024

P.C. :

. Heard learned counsel for the applicants and learned APP for the respondent-State, as also the learned counsel having instructions to appear on behalf of the first informant.

2. The applicants have approached this Court as they apprehend arrest in connection with FIR No. 0214 of 2024 dated 14th August 2024 registered at Murgud Police Station, Dist. Kolahpur, for offences under Sections 109, 189(2), 191(2), 191(3), 190, 115(2), 333 and 140(1) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. The informant in the present case stated that on the date and

time of the incident, the accused persons, including the applicants herein, assaulted him and then forcibly took him in their vehicle and thereafter, further assaulted him. This led to registration of the offences against the accused persons.

4. The learned counsel for the applicants submits that the informant has settled the dispute with the applicants and this factum may be taken into consideration. It is further submitted that although, the presence of the applicants may have been mentioned in the statement of the informant, the nature of the incident indicates that the custody of the applicants may not be required.

5. The learned APP, on the other hand, opposed the present application. He submitted that in the present application, a false statement is made to the effect that the applicants have no criminal antecedents, while there is material to show number of criminal antecedents against both the applicants. The details have been tendered by the learned APP to this Court.

6. It is further submitted that the presence and the active role of the applicants is clearly stated by the informant in his statement, which led to registration of the FIR. On this basis, it is submitted that the application deserves to be dismissed.

7. This Court is of the opinion that in such offences, particularly offence pertaining to Section 109 of the BNS i.e.

attempt to murder, there is no question of settlement between the parties.

8. A perusal of the statement of the informant, leading to registration of the FIR, shows that on both the occasions during the series of incidents described by the informant that took place on 14th August 2024, not only the presence of the applicants is mentioned, but specific role is attributed to both the applicants in the process of the informant being assaulted. He was also forcibly taken in a vehicle belonging to the accused persons. The statement shows use of a spanner of car and a steel utensil as weapons to assault the victim. Therefore, there is no substance in the contention of the learned counsel for the applicants that the role of the applicants cannot be said to be such that their custody would not be required.

9. Apart from this, a false statement is made in the present application that the applicants do not have any criminal antecedents. The statement tendered by the learned APP shows that as against applicant No.1, there are as many as 8 criminal antecedents, including cases in which offences have been registered under Sections 302 and 307 of the Indian Penal Code, 1860 (IPC). The applicant No.2 is a co-accused person in one of such cases and he also has one more criminal antecedent. Therefore, it is clear that the applicants do have a criminal background and this could perhaps be the reason why the informant is now being pressurized into giving his consent for

allowing the present application. Such consent is of no value, as the Court, in this case, on merits finds that the application deserves to be dismissed.

10. Accordingly, the application is dismissed.

MANISH PITALE, J.