

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

ANTICIPATORY BAIL APPLICATION NO. 3293 OF 2024

1. Kapil Bharat Pawar		
2. Vijay Subhash Dabhade		
3. Ajay Subhash Dabhade		
4. Vaibhav Shantaram Dalvi		
5. Vishal Bhausahab Dalvi		
6. Rajendra Balasaheb Pingal		
7. Akshay Pingal	...	Applicants
Versus		
The State of Maharashtra & Anr.	...	Respondents

Mr. Ashwin R. Kapadnis for the Applicants.
Mr. Kiran C. Shinde, APP for Respondent No.1-State.
Mr. Z. M. Avhad for Respondent No.2.
Mr. Vikas P. Dhokare, API, Saykheda Police Station, Nashik Rural.

CORAM: MANISH PITALE, J.
DATE : 9th DECEMBER 2024

P.C. :

. Heard learned counsel for the applicants, learned APP for the respondent-State and learned counsel having instructions to appear on behalf of respondent No.2 i.e. first informant.

2. The applicants are apprehending arrest in connection with FIR No.0223 of 2024 dated 4th October 2024 registered at Saykheda Police Station, Dist. Nashik, for offence under Sections 76, 79, 189(2), 190, 191(2), 192, 126(2), 351(3) and 115(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. At the outset, the learned counsel for the applicants relied upon earlier order dated 19th November 2024 passed by this Court in Anticipatory Bail Application No. 3066 of 2024, in the context of 5 other co-accused persons. The said application was allowed. It is contended that the role attributed to the applicants in this application, is the same as that attributed to the aforesaid 5 co-accused persons and therefore, on the principle of parity, the present application may be allowed.

4. This Court has perused the said order dated 19th November 2024, passed in the said anticipatory bail application, concerning 5 co-accused persons. There appears to be substance in the contentions raised on behalf of the applicants herein. But, considering the vehemence with which the learned counsel appearing for the respondent No.2 (first informant) has made submissions before this Court, a detailed order is warranted in the present application also.

5. The FIR in the present case is registered on the statement of the first informant, wherein she has alleged that the accused persons, including the applicants herein, were present on the date and time of the incident. During the course of the incident, the informant herself, her father and her nephew, were assaulted by the accused persons, who were 17 in number and it is alleged that during the course of the incident, the first informant was treated in such a manner that resulted in outraging her modesty and therefore, serious offences have been registered against all the

accused persons.

6. The learned counsel for the applicants submitted that in the present case, there is a backdrop concerning the registration of the FIR. Reference was made to a property dispute, involving the first informant, which through a civil proceeding has reached this Court. It is submitted that one of the co-accused i.e. applicant No.2-Manoj Bhausaheb Dalvi in Anticipatory Bail Application No. 3066 of 2024, had purchased the land, which was subject matter of the civil proceedings initiated by the informant. It is further brought to the notice of this Court that in the backdrop of the aforesaid dispute, on 1st October 2024, a report of non-cognizable offence (NC) was registered against the brother of the informant on an allegation that he had placed abusive messages on a *WhatsApp* group, of which the accused persons are also members. In fact, most of the persons arraigned as accused in the present case, are members of the *Gram Panchayat*.

7. It is further highlighted on behalf of the applicants that the actual role of disrobing the informant is attributable to other co-accused persons and not the applicants before this Court. It is submitted that this Court may consider that omnibus and general allegations were made and since the applicants are ready to cooperate with the investigation, the present application may be allowed.

8. On the other hand, the learned APP submitted that names of

the applicants in this application are very much stated in the statement of the informant, leading to registration of the FIR. It is submitted that the distinction of roles sought to be made on behalf of the applicants, is not sustainable at this stage. It is brought to the notice of this Court that after the aforesaid order dated 19th November 2024 was passed in favour of the applicants in Anticipatory Bail Application No. 3066 of 2024, the informant was constrained to cause a further FIR to be registered against two of the applicants in the said application, on an allegation of having threatened the informant, thereby showing the conduct of the co-accused persons, which also may be taken into consideration.

9. The learned counsel appearing for the respondent No.2 (first informant) submitted that since provisions pertaining to unlawful assembly are invoked in the present case, the very presence of the applicants is sufficient to show their involvement in the offence in question, including the offence concerning first informant being disrobed. It is submitted that even if specific allegations are against the co-accused persons, in the context of offence of unlawful assembly being registered, the contentions raised on behalf of the applicants do not deserve consideration. Reference is also made to the backdrop of the property dispute, but it is submitted that the same cannot be a reason to show any indulgence to the applicants, who have committed a heinous crime in full public view.

10. This Court has considered the rival submissions. A perusal of

the statement of the informant, leading to registration of the FIR, would show that the allegations levelled against the applicants are similar to those levelled against the applicants in Anticipatory Bail Application No. 3066 of 2024, who were granted anticipatory bail by order dated 19th November 2024. The reasons recorded in the said order, read as follows :

“7. This Court has considered the rival submissions in the light of the material on record, as also on perusal of the investigation papers. A perusal of the statement of the informant shows that the names of the applicants have been stated along with those of co-accused persons in a general and omnibus manner. It is generally alleged against the applicants that they were also present when the incident took place. It is to be noted that the specific act relatable to the alleged offence under Section 76 of the BNS is alleged against co-accused persons and not the applicants.

8. It is also relevant to note that while the incident took place on 02.10.2024 at about 9:30 a.m., the FIR came to be registered after two days on 04.10.2024 at about 1:30 p.m. It appears that the informant has roped in large number of accused persons without making specific allegations against the applicants herein.

9. There is substance in the contention raised on behalf of the applicants that the background of registration of the FIR cannot be ignored. On 01.10.2024, one of the co-accused persons caused the aforesaid NC to be registered against the brother of the informant in the backdrop of abusive language used by him in a WhatsApp group, of which some of the accused persons were members. A prima facie case is made out in their favour and they are ready to co-operate with the investigation.”

11. The above quoted reasons apply to the applicants in this application also, as a perusal of the FIR would show that omnibus

and general allegations about the victim being assaulted at the hands of the applicants, along with co-accused persons, have been made.

12. There is indeed a portion of the FIR, which refers to certain allegations pertaining only to the manner in which the first informant, being a woman was ill-treated, including being disrobed by some of the co-accused persons. The said set of allegations pertain to co-accused persons other than the applicants before this Court. It is also relevant to mention here that the contention regarding the provisions of unlawful assembly invoked and therefore, the applicants being not entitled to take advantage of distinction in the role, can be answered while looking at the statement of the informant, leading to registration of the FIR. It appears that after naming all the accused persons, the specific allegation is with regard to the manner in which the father of the first informant was pulled down from the vehicle and he was beaten up by the accused persons. In fact, the allegation of beating concerns the informant, her father and her nephew i.e. all three of them. Thereupon, an allegation is made against specifically named accused persons only with regard to the incident involving the first informant and in the manner in which she was disrobed.

13. This Court finds that general and omnibus allegations are made with regard to part of the incident of beating and then specific allegations are made with regard to the alleged disrobing of the first informant in respect of specifically named co-accused

persons. This cannot be ignored while considering the present application.

14. Apart from this, the property dispute, involving the first informant, can also not be ignored. There are documents on record to show the manner in which the dispute has been pursued by the informant upto this Court and certain orders passed in that regard. It is not seriously disputed that the applicant No.2 in Anticipatory Bail Application No. 3066 of 2024 had purchased the land, which was subject matter of civil dispute, involving the first informant. The recording of N.C. against the brother of the first informant on 1st October 2024 is also on record, which shows that the allegations made against him pertained to using abusive language against the members of the *WhatsApp* group, of which the accused persons are members and most of them are members of the *Gram Panchayat*.

15. In the backdrop of such property dispute and serious rivalries, the possibility of exaggerated allegations cannot be discounted. In fact, the propensity of the first informant to exaggerate and to cross limits appears to be evident from a document brought to the notice of this Court. It is found that this first informant filed application before the Magistrate on 22nd December 2022 under Section 156(3) of the Code of Criminal Procedure, 1973, making allegations against a Judge of this Court, who had passed an order in a proceeding concerning property dispute raised by the first informant. The reference to the said

application is being made only to show the tendency of this first informant to cross all limits by seeking to even arraign a Judge of this Court as an accused before the Magistrate, only because she is dissatisfied with the order passed by the said Judge of this Court.

16. Viewed from this angle, it appears that due to the dispute of property and registration of the N.C. against her brother, the first informant has caused the FIR to be registered, which may have involved an incident, but the possibility of exaggerated allegations being made against as many persons as possible cannot be ruled out.

17. A case is made out for granting anticipatory bail.

18. Accordingly, the application is allowed in the following terms :

(a) In the event the applicants are arrested in connection with FIR No. 0223 of 2024 dated 4th October 2024 registered at Saykheda Police Station, Dist. Nashik, they shall be released on bail on furnishing PR Bond 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 12th December 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer. The applicants shall

cooperate with the investigation.

(c) The applicants shall not, in any manner, contact the first informant, during the pendency of the proceedings.

(d) The applicants shall not tamper with the evidence of the prosecution in any manner. They shall not influence the informant, witnesses or any other person concerned with the case.

19. Needless to say, violation of any of the aforesaid conditions would make the applicants 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 applicants in the present application.

20. The application is disposed of.

MANISH PITALE, J.