

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

ANTICIPATORY BAIL APPLICATION NO. 3303 OF 2024

1. Vijay Yesu Jadhav		
2. Druv @ Vishwanath Gaikwad	...	Applicants
Versus		
The State of Maharashtra	...	Respondent

Mr. Rahul B. Vijaymane for the Applicants.
Mr. Tanveer G. Khan, APP for Respondent-State.
Mr. Santosh R. Chavan, Head Constable, Vijapur Naka Police
Station, Dist. Solapur City.

**CORAM: MANISH PITALE, J.
DATE : 12th DECEMBER 2024**

P.C. :

1. Heard learned counsel for the applicants and learned APP
for the respondent-State.

2. The applicants are apprehending arrest in connection with
FIR No.0359 of 2024 dated 30th July 2024 registered at Vijapur
Police Station, Dist. Solapur for offences under Sections 118(1),
118(2), 352, 351(2), 309(6), 308(5) and 3(5) of the Bharatiya
Nyaya Sanhita, 2023 (BNS).

3. The statement of the informant, which led to registration of
the FIR, shows that on the date and time of the incident, the
named accused person along with 3 unknown persons dragged and
assaulted the informant, in the backdrop of an incident that had
taken place on the prior date.

4. In the supplementary statement recorded on 4th August 2024, the informant elaborated that the applicants herein were two of the three persons accompanying the named accused person on the date and time of the incident. He refers to their role in the supplementary statement.

5. The learned counsel for the applicants submits that the applicants were not named in the FIR at the first instance, and their names appear to have been added subsequently on the basis of the supplementary statement. It is submitted that even if such material is to be taken into consideration, the main role pertaining to the assault is that of the named accused person and since, the applicants are ready to cooperate with the investigation, this Court may consider allowing the application.

6. The learned APP, on the other hand, relied upon the FIR as well as the supplementary statement of the informant. It is submitted that the Sessions Court took into consideration the contents of the supplementary statement to reach a conclusion that the presence and active role of the applicants was *prima facie* established. In such a situation, it is submitted that this Court may not show any indulgence to the applicants.

7. In the light of the rival submissions and upon perusal of the material on record, this Court is inclined to allow the application, for the following reasons :

- (a) The applicants were not named in the FIR, as even according to the informant, the named accused person was accompanied by three unknown persons.
- (b) The supplementary statement was recorded 4 days later on 4th August 2024. In the said statement also the informant has identified the applicants on the basis of hearsay and statements given by other individuals.
- (c) Even if the contents of the supplementary statement are taken into account, although allegation regarding the applicants wielding weapons is made out, but the manner in which the incident is described, *prima facie* shows that the blows that were inflicted upon the informant, could be said to be attributable to the named accused person and the other accused person.
- (d) The applicants have undertaken to cooperate with the investigation.

8. In view of the above, the application is allowed in the following terms :

- (a) In the event the applicant is arrested in connection with FIR No. 0359 of 2024 dated 30th July 2024 registered at Vijapur Police Station, Dist. Solapur, he shall be released on bail on furnishing PR Bond of Rs.25,000/- and one or two sureties in the like amount

to the satisfaction of the trial Court.

(b) The applicant shall remain present before the Investigating Officer on 16th December 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer. The applicant shall cooperate with the investigation.

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

9. 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.

10. The application is disposed of.

MANISH PITALE, J.