

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

ANTICIPATORY BAIL APPLICATION NO. 3460 OF 2024

Pawan Chandrakant Pawar ... Applicant
Versus
The State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO. 5272 OF 2024
(NOT ON BOARD. TAKEN ON BOARD.)
IN
ANTICIPATORY BAIL APPLICATION NO. 3460 OF 2024**

Pratap Shivaji Chumbale ... Applicant
Versus
The State of Maharashtra ... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 3462 OF 2024**

Vishal Chandrakant Pawar ... Applicant
Versus
The State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO. 5273 OF 2024
(NOT ON BOARD. TAKEN ON BOARD.)
IN
ANTICIPATORY BAIL APPLICATION NO. 3462 OF 2024**

Pratap Shivaji Chumbale ... Applicant
Versus
The State of Maharashtra ... Respondent

Mr. Aabad Ponda, Senior Advocate, a/w Mr. Sandeep Shinde i/by
Chetan H. Deshmukh for the Applicant in ABA/3460/2024.
Mr. Niranjana Mundargi a/w Mr. Sandeep Shinde and Keral Mehta
i/by Chetan H. Deshmukh for the Applicant in ABA/3462/2024.
Mr. Sagar R. Agarkar, APP for Respondent-State in ABA/3460/

2024.

Mr. Balraj B. Kulkarni, APP for Respondent-State in ABA/3462/2024.

Mr. Sanjiv Kadam i/by Sachin S. Gite and Sarfaraj J. Shaikh for the Applicants/Complainant in IA/5272/2024 and IA/5273/2024.

Mr. P. S. Deore, PSI, Deolali Camp Police Station.

CORAM: MANISH PITALE, J.
DATE : 19th DECEMBER 2024

P.C. :

. Heard learned Senior Counsel for the applicants, learned APP for the respondent-State and learned counsel appearing for the Intervenor (first informant).

2. Both the applicants in these applications are apprehending arrest in connection with FIR No.0124 of 2024 dated 30th November 2024 registered at Deolali Camp Police Station, Dist. Nashik, for offences under Section 310(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Section 135 of the Maharashtra Police Act, 1951.

3. The offences in the present case pertain to dacoity. The allegation as per the statement of the informant against the accused persons, including the applicants, is that on 22nd November 2024, the accused persons reached the office of the company, in which the first informant is a partner. It is alleged that there was a mob of 50 to 60 persons armed with sticks and *koytas*. They abused and assaulted the security guards by slapping them and thereafter, they ransacked the office, taking away about

Rs.1,70,000/- lakhs in cash and other material, totaling Rs.2,47,700/-.

4. The learned Senior Counsel appearing for the applicants submitted that there is a background to the allegations, leading to registration of the FIR. Reference was made to a Deed of Conveyance dated 5th August 2024 executed between a Trust and the Company, with which the first informant is concerned. It is submitted that the Deed of Conveyance itself clearly stipulates that the subject land has encroachers and that it was sold to the said company on an 'as is where is basis', along with existing tenants/occupants and encroachment.

5. It is submitted that despite the aforesaid stipulation, after the Conveyance Deed was executed, the accused persons, including the applicants, faced tremendous pressure from the persons concerned with the first informant and there were at least two incidents reported to the Police on 20th October 2024 and 22nd November 2024, with regard to the manner in which the victims were subjected to violence and threats in order to withdraw certain objection taken before the Revenue Authority, concerning the aforesaid land. It was submitted that despite written complaints being made to the Police, no action was taken, as a consequence of which, on 29th November 2024, the complaints have to be reiterated and after the said third written complaint was submitted before the concerned Police Station, the subject FIR came to be registered on 30th November 2024, 4 minutes past

midnight, pertaining to the alleged incident of 22nd November 2024, obviously showing that the FIR was not only delayed, but it was a counter-blast and an after-thought. It was submitted that since the applicants are ready to cooperate with the investigation, this Court may consider allowing the applications.

6. Attention of this Court was also invited to a civil suit filed on behalf of the certain individuals, including one of the applicants herein, with regard to the piece of property claimed to be the subject matter of the aforesaid Conveyance Deed. It is brought to the notice of this Court that on 19th November 2024, an *ex-parte* injunction was granted in favour of the plaintiffs, with regard to their possession and enjoyment of the suit property, while issuing notice to the defendants. It was emphasized that the defendants in the said suit are none other than the company, with which the first informant is concerned.

7. On the other hand, the learned APP vehemently opposed the present applications. He submitted that the written complaints submitted by the applicants and others between 20th October 2024 and 29th November 2024, were all during election period and therefore, it cannot be claimed that the Police did not act upon the same. It was due to election duty that the Police was overburdened and therefore, perhaps immediate action could not be taken. In any case, at least two of the complainants in the complaints had stated before the Police that they had no concern with the grievance raised in such complaints. It was further

submitted that if there was an injunction dated 19th November 2024 operating in favour of the plaintiffs, including one of the applicants herein, there was no necessity for the applicants and the accused persons to have ransacked the office of the company, with which the first informant is concerned. It was further submitted that the allegations in the statement of the informant are clear and therefore, the ingredients of the alleged offences are made out, this Court may not show any indulgence to the applicants because there are criminal antecedents insofar they are concerned.

8. This Court has carefully perused the material on record, including the written complaints submitted on 20th October 2024, 22nd and 29th November 2024 on behalf of the accused persons, as also written complaint submitted on 23rd November 2024 by the first informant, with regard to the incident, which led to registration of the FIR.

9. The aforesaid documents brought to the notice of this Court do indicate that the Police in the present case has chosen to remain inactive for reasons best known to the concerned Police Officers. It cannot be an excuse that since election was being conducted in the State of Maharashtra, ordinary Policing Duty would be given a go bye. In any case, the Police machinery cannot be said to be paralyzed only because elections of the Legislative Assembly were being conducted.

10. Therefore, this Court is of the opinion that a *prima facie*

case is made out by the applicants to claim that the Police did not take any action on their aforesaid three written complaints, despite the fact that all the three written complaints were acknowledged to have been received in the said Police Station.

11. The same could also be the grievance of the first informant, as a written complaint dated 23rd November 2024 appears to have been received in the said Police Station with regard to the alleged incident, which led to registration of the FIR. But, it is to be noted that while the three written complaints submitted on behalf of the accused persons on 20th October 2024, 22nd and 29th November 2024, did not result in any inquiry or even registration of an FIR or a report pertaining to non-cognizable offences, 4 minutes past to midnight on 30th November 2024, the Police chose to register the subject FIR, pertaining to the incident dated 22nd November 2024. There is substance in the contention raised on behalf of the applicants that this *prima facie* indicates that the Police Machinery in the present case was not objective and it was indulging in pick and choose.

12. In this backdrop, when the contents of the statement of the first informant leading to registration of the FIR are perused, this Court finds that even according to the first informant, while a mob of 50 to 60 unknown persons came with sticks and *koytas*, in an aggressive manner, towards the office of the company, with which the informant is concerned, the security personnel were allegedly assaulted only by way of slaps and they were orally

abused, following which the office was ransacked and cash, as well as certain material worth Rs.2,47,700/- was taken away. The description of the incident itself *prima facie* appears to be exaggerated and in the backdrop of the property dispute between the parties, it can be said to be an attempt to give the colour of criminality to a civil dispute between the parties. It is already noted that there is a civil suit filed, in which one of the applicants is a plaintiff and there is *ex-parte* injunction granted in favour of the plaintiffs therein.

13. This Court is of the opinion that in such circumstances, the applicants have been able to demonstrate a strong *prima facie* case in their favour and therefore, the applications deserve to be allowed, so long as the applicants are ready to cooperate with the investigation. Merely because the applicants have some criminal antecedents, cannot be a ground to deprive them of relief in these applications.

14. In view of the above, the applications are allowed in the following terms :

(a) In the event the applicants are arrested in connection with FIR No.0124 of 2024 dated 30th November 2024 registered at Deolali Camp Police Station, Dist. Nashik, they shall be released on bail on furnishing PR Bond of Rs.50,000/- each and one or two sureties in the like amount.

(b) The applicants shall remain present before the Investigating Officer on 21st and 23rd 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 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.

15. 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 applications.

16. The applications are disposed of.

17. In view of the disposal of the Anticipatory Bail Applications, the Interim Applications also stand disposed of.

MANISH PITALE, J.