

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

ANTICIPATORY BAIL APPLICATION NO. 3274 OF 2024

1. Shobha Ramesh Salve
2. Ramesh Ravji Salve ... Applicants
Versus
The State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO. 5048 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 3274 OF 2024**

Dilip Harising Rathod ... Applicant
Versus
The State of Maharashtra & Ors. ... Respondents

Mr. Dinesh P. Adsule a/w Rutuja Karwal for the Applicants.
Mr. Sagar R. Agarkar, APP for Respondent-State.
Mr. Rajas Naik for the Applicant in IA/5048/2024.

**CORAM: MANISH PITALE, J.
DATE : 10th DECEMBER 2024**

P.C. :

. When this application was taken up for consideration on 6th December 2024, this Court recorded a specific submission made on behalf of the applicants that before registration of the subject FIR at Nashikroad Police Station in Dist. Nashik, pursuant to order dated 5th September 2024 passed by the Judicial Magistrate First Class, Nashikroad, (JMFC, Nashikroad) in Criminal Miscellaneous Application No. 203 of 2024, the informant had

already moved an application for the very same grievance before the Judicial Magistrate First Class, Parola, Dist. Jalgaon (JMFC, Parola, Dist. Jalgaon).

2. In the light of the aforesaid submission, the hearing of this application was adjourned to today, for the learned APP and the learned counsel having instructions to appear on behalf of the first informant to take appropriate instructions in the matter. In fact, the first informant has filed an intervention application in the present anticipatory bail application.

3. The learned APP, on instructions, submits that it is indeed a fact that the first informant (intervenor) had filed application under Section 156(3) of the Code of Criminal Procedure, 1973 (Cr.P.C.) before the Court of JMFC, Parola, Dist. Jalgaon, in the year 2022 itself, the same having been filed on 28th November 2022. The grievance raised therein is identical to the grievance on the basis of which the subject FIR has been registered. This is also conceded by the learned counsel appearing for the first informant (intervenor).

4. The learned counsel for the applicants submits that the said application before the JMFC, Parola, Dist. Jalgaon, is pending even today and according to him, at least 30 dates have been given in the said matter, wherein the first informant has even filed documents in support of the said application. It is submitted that in the face of pendency of the said application, without disclosing

the same, the first informant could not have moved application under Section 156(3) of the Cr.P.C. before the JMFC, Nashikroad in the year 2024. The suppression of fact is evident and on this ground itself, the subject FIR is rendered defective. On this basis, the learned counsel for the applicants seeks relief for the applicants on the ground that the applicants undertake to cooperate with the investigation.

5. The learned counsel for the first informant, on the other hand, submitted that although, the application before the JMFC, Parola, Dist. Jalgaon, is pending, but effective orders have not been passed and the said application can be withdrawn by the first informant.

6. This Court is of the opinion that the admitted position on facts indicates that the first informant suppressed filing and pendency of the application under Section 156(3) of the Cr.P.C. before the JMFC, Parola, Dist. Jalgaon, for very same grievance, while pursuing the application filed before the JMFC, Nashikroad. It is significant to note that the application filed before the JMFC, Parola, Dist. Jalgaon, was filed as far back as on 28th November 2022, wherein number of dates were given and it appears that the first informant had gone ahead to file documents in support with the said application. The pendency of the said application was obviously suppressed in the subsequent application under Section 156(3) of the Cr.P.C. filed before the JMFC, Nashikroad, in the year 2024. This goes to the root of the matter and this Court finds

substance in the contention raised on behalf of the applicants that such admitted position on facts renders registration of the FIR itself defective. Nonetheless, the applicants are ready to cooperate with the investigation and therefore, a case is made out for allowing the present application.

7. The application is allowed in the following terms :

(a) In the event the applicants are arrested in connection with FIR No. 0523 of 2024 dated 4th October 2024 registered at Nashikroad Police Station, Dist. Nashik, for offences under Sections 420, 467, 468 and 471 read with 34 of the Indian Penal Code, 1860 (IPC), 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 13th 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.

8. 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.

9. The application is disposed of.

10. In view of the disposal of the bail application, the interim application also stands disposed of.

MANISH PITALE, J.