



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 ANTICIPATORY BAIL APPLICATION NO. 853 OF 2025

1. Shrikisan @ Krushna S/o. Lakshman Kanse
2. Vitthal S/o. Lakshiman Jadhav ... **APPLICANTS**

VERSUS

1. The State of Maharashtra
2. The Superintendent of Police ... **RESPONDENTS**

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Mr. Swapnil D. Gawate - Advocate for Applicants

Mr. V.S. Badakh - Advocate for Respondent Nos.1 and 2, State

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CORAM : SANJAY A. DESHMUKH, J.
(VACATION COURT)

DATED : 05.06.2025

PER COURT :-

1. This is an application filed under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNS, 2023'*) for grant of anticipatory bail in connection with Crime No.232 of 2025, registered with Ambad Police Station, Ambad, Dist. Jalna for the offences punishable under Sections 118(1), 118(2), 189(2), 190, 191(2), 191(3), 351(2) of Bharatiya Nyaya Sanhita, 2023.

2. Learned Counsel for the applicants pointed out the

report lodged by the informant wherein it is alleged that the dispute took place on account of boundary of agricultural land and also on account of payment of medicine purchased from the shop of uncle of applicant No.1. He pointed out the report and submitted that the quarrel took place on 27.04.2025. That time one Kakasaheb Kanse took out iron pipe and assaulted informant on right hand and other accused persons namely, Laxman Kanse, Mahadu Kanse and Radhakisan Kanse started beating the informant. That time the informant's younger brother Rihan who was standing near the shop noticed it and called Aminoddin Momin and Sofiyan Momin. They tried to restrain the quarrel. That time Kakasaheb Kanse assaulted Aminoddin Momin, uncle of informant by means of spade on his rib therefore he sustained serious injury. That time Vitthal Jadhav, applicant No.2 and co-accused Mahadu Kanse assaulted Rihan by means of pipe. When Sofiyan went to rescue the quarrel Mahadu Kanse beat him by means of steel pipe which sustained the injury on thigh. Again Vitthal Jadhav, applicant No.2 assaulted Rihan by the pipe that time Krushna Kanse and Navnath Kanse assaulted the informant by the stick. The informant and Rihan were injured. The quarrel was resolved by the people gathered

there. Since the informant was being treated in Chhatrapatil Sambhajanagar the report was lodged after two days.

3. Learned Counsel for the applicants submitted that, the report was lodged by the applicants side by Kakasaheb Radhakisan Kanse on the second day of the incident that the informant Kakasaheb Kanse got a phone call from Radhakisan Kanse that Ayaz Momin and his family members are beating him at Chhaya Krushi Shop. Ayaz Momin assaulted Radhakisan Kanse, the father of informant on his right hand and shoulder. Sofiyan assaulted the uncle of informant Kakasaheb Kanse by iron pipe on his head. He sustained the injury on his head and fell down. When the informant and his cousin Kisan went to save the father and uncle of informant that time Aminnodin Momin assaulted Kisan by iron spade causing head injury and due to assault by Ayaz Momin the right shoulder of Kisan was displaced. Sofiyan also assaulted him by wooden stick. Informant's cousin Shrikisan fell down that time Rihan assaulted on his chest by the stone. Informant was assaulted by Ayaz Momin, Sofiyan Momin, Kaif Momin, Rihan Momin and Aminoddin Momin by means of iron pipe, iron rod and wooden stick on his head in order to commit his murder. The finger of his right hand was fractured

because of the assault by Sofiyan Momin. Learned Counsel for the applicants submitted that, the informant's side was aggressive and they have assaulted the informant by entering into their shop alongwith the weapons. He also submitted that, the report lodged by the informant is false report, therefore he prayed for grant of anticipatory bail.

4. Learned A.P.P. for respondents, State, strongly opposed the application and submitted that, the applicants' names are mentioned in the report and they participated in the crime. He submitted that, one injured Rihan sustained fracture injury to his head which is revealed in the C.T. scan report. He submitted that, the custody of the applicants is necessary for further investigation. He pointed out the order of learned Sessions Court and prayed for rejection of the present application.

5. On perusal of report it is crystal clear that, the informants' side is aggressive and they went to the shop of the applicant alongwith iron pipe, iron rod and wooden stick and started to assault them. Thereafter the applicants' side also assaulted them. The quarrel took place on the shop of the applicants. They lodged the report on the second day of the

incident. The informants' side lodged the report on the third day of the incident. On perusal of the report it reveals that, the informant Ayaz Momin though alleged that, Krushna Kanse assaulted him by means of stick. No injury is sustained to him as per the report. Vitthal Jadhav, applicant No.2 and Mahadu Kanse, the co-accused assaulted Rihan by steel pipe. Rihan's supplementary statement is not recorded as there is one injury sustained to him on head by the assault of the accused. He sustained injury to his head. His injury certificate is not filed on record. Though it is alleged that applicant No.1 assaulted the informant. He has no any injury. The applicants' were bound to protect themselves and their family members. In such a fact situation *prima-facie* the right of private defence is available. Considering all these aspects it is crystal clear that, the custody of the applicants is not necessary for the further investigation. The application deserves to be allowed. Hence, the following order :-

ORDER

- I. The application is allowed.
- II. In the event of arrest of the applicants in
Crime No.232 of 2025, registered with Ambad

Police Station, Ambad, Dist. Jalna for the offences punishable under Sections 118(1), 118(2), 189(2), 190, 191(2), 191(3), 351(2) of Bharatiya Nyaya Sanhita, 2023, the applicants be released on bail on execution of personal bond of Rs.25,000/- (rupees Twenty Five Thousands only) with surety of the like amount each on the following conditions :

- (a) The applicants shall not pressurize the prosecution witnesses, in any manner.
- (b) The applicants shall not tamper with the prosecution evidence, in any manner.
- (c) The applicants shall not indulge in similar activities again.
- (d) The applicants are directed to remain present before the investigating officer as and when required.

(SANJAY A. DESHMUKH, J.)