Prasad R. Rajput

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 226 of 2025

Gulam Gaus Shabbir Ahmed Gulam Badguzar .. Applicant
Versus
State Of Maharashtra .. Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 227 of 2025

Shabbir Ahmed Gulam Nabi Badguzar .. Applicant
Versus
State Of Maharashtra .. Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 228 of 2025

Sameer Shabbir Ahmed Badguzar .. Applicant
Versus
State Of Maharashtra .. Respondent

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- Mr. Tuushar Sonawane a/w Ms. Pooja Satpute, Advocates for Applicants.
- Mr. Sukanta A. Karmakar, APP for State in ABA 226 of 2025.
- Mr. Balraj B. Kulkarni, APP for State in ABA 227 of 2025.
- Ms. Mahalaxmi Ganpathy, APP for State in ABA 228 of 2025.
- Mr. Sudhir B. Desai, PSI, Bhiwandi, Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 24, 2025

P. C.:

1. Heard Mr. Sonawane, learned Advocate for Applicants; Mr. Karmakar, Mr. Kulkarni and Ms. Ganpathy, learned APPs for State. Perused the record. Common order is passed in all three Applications.

2. Applicant - accused Nos.1, 2 and 3 are apprehending arrest in connection with C.R. No. 1273 of 2024 registered with Bhiwandi Shahar Police Station on 21.12.2024 for the offences punishable under Sections 118(1), 118(2), 352 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short "**BNS**"). In Bail Application No. 226 of 2025, Applicant is Accused No.2 namely Gulam Gaus Shabbir Ahmed Gulam Badguzar, in Bail Application No. 227 of 2025, Applicant is Accused No.3 namely Shabbir Ahmed Gulam Nabi Badguzar and in Bail Application No. 228 of 2025, Applicant is Accused No.1 namely Sameer Shabbir Ahmed Badguzar.

3. Briefly stated, at the outset it has been informed to me by the learned Advocates that offences and the incident which took place are serious as such that there are 4 persons who are grievously injured and out of which 2 persons i.e. Accused No.1 and Accused No.2 are undergoing treatment in a hospital till date. Date of incident is 20.12.2024. Admittedly all injuries are grievous.

4. According to the First Informant-Complainant Asif Abdul Aziz Jatu on the date of incident at about 02.00 pm after finishing their prayer (namaj), observed that his nephew Nehal Jatu went to buy some fruits where there was a verbal altercation which took place with the present Applicant-Accused Nos.1, 2 and 3. He has stated that initially, the verbal altercation was with Accused No.2 only and the

passerby and persons in the vicinity intervened in that verbal altercation and separated them. According to the First Informant at that time Accused No.1 accompanied by Accused No.2 and 3 came to him where he was standing and started abusing him. At that time First Informant and those accompanying with him confronted the Accused Nos.1, 2 and 3. According to the First Informant Accused were carrying Iron Rod and Bamboo Sticks (lathya) and they without provocation indiscriminately started assaulting the First Informant and those present with him. No details of which accused was carrying what weapon as also who were the other persons accompanying the First Informant who were assaulted are stated in the FIR. The First Informant has further stated that in the assault which ensued some persons injured his hip with a sharp weapon. The First Informant also stated that he was injured on his face and broke one of his tooth and thereafter he was unconscious and was taken to hospital. Apart from above, nothing is stated in the FIR.

5. When I called for the investigation done by the prosecution upto this stage the statement of Nehal Jatu which was recorded by the prosecution is placed before me. In that statement the nephew of the First Informant has stated the facts which are in contradiction with the case registered in the First Informantion. Reading of the Nehal Jatu's statement shows that after the verbal

altercation which took place with Accused No. 2 he started walking away and he saw the Accused blocking his way and that the Accused were having Iron Rod and Bamboo Sticks in their hands. The said nephew of the First Informant has in his statement recorded by the Investigating Officer on the following date i.e. on 21.12.2024 stated that Accused assaulted him with the Iron Rod on his head and his body and he has received grievous injury on his head and his body. Record shows that the present Accused Nos.1, 2 and 3 were also injured in the incident and except for Accused No.3 who has been discharged from Hospital, Accused Nos.1 and 2 are still undergoing treatment in the Hospital.

6. Insofar as the First Informant and the people accompanying him are concerned, on instructions of Investigating Officer who is personally present in the Court it is informed by Ms. Ganpathy, that the First Informant and Nehal Jatu are presently undergoing treatment in Hospital. Precursor to filing of FIR which is registered on 21.12.2024 at 11:56 pm by the First Informant from his Hospital bed is the filing of previous FIR bearing No. 1272 of 2024 which is appended at Page No.58 of the Application. This FIR is filed by Accused No.2 Gulam on 21.12.2024 at 11:50 am. Offences in both the FIR are same thus this is a case of cross FIRs filed by the parties who were injured in the incident. In the first FIR the Informant who is

Accused No.2 has given the details of the incident and it is the case of the Accused that without any provocation at the time of the incident several family members of the Jatu family whose names are given in the FIR approached the accused who was purchasing fruits and started assaulting them with Iron Rod and Bamboo Sticks (lathya).

7. The apparent cause of action for the incident is stated in the FIR at Page No. 61 which is the real provocation behind the incident pertaining to the photograph of the wife of one of parties in the mobile phone of one of the persons from the opposite group. Considering the above *prima facie* evidence before me Applicants deserve pre-arrest bail and inview of the above, custodial interrogation is not at all necessary.

8. Applications stand allowed in terms of prayer Clause 'a' in all the three Applications on the following terms/order:-

O R D E R

(i) In the event of the arrest, the Applicants be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 25,000/- each with one or two sureties in the like amount;

(ii) Applicants shall not tamper or attempt to influence the Complainant, witnesses or any person concerned with the case;

(iii) Applicants shall attend the Police Station on the first Monday of every month between 10.00 a. m. and 12.00 noon until the Charge-sheet is filed and therreafter as and when called for by the Investigating Officer;

(iv) Applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicants' bail.

9. It is made clear that the observations made herein are *prima facie* and are for limited purpose of granting Anticipatory Bail.

PR. Rajput

[MILIND N. JADHAV, J.]