

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.661 OF 2025

Vishal Shivnath Gulve	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.272 OF 2025

Bajirav Madhukar Gulve	...Applicant
<i>Versus</i>	
The State of Maharashtra & Anr.	...Respondents

WITH
ANTICIPATORY BAIL APPLICATION NO.436 OF 2025

Shivnath Madhukar Gulve	...Applicant
<i>Versus</i>	
The State of Maharashtra & Anr.	...Respondents

WITH
ANTICIPATORY BAIL APPLICATION NO.1167 OF 2025

Rajendra Madhukar Gulave	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Niranjan Mundari (through Video Conferencing) a/w. Ms. Keral Mehta h/f. Mr. Rohit Gorade, for the Applicants in ABA/272/2025, ABA/436/2025 and ABA/661/2025.
Mr. Narayan G. Rokade a/w. Mr. Ajinkya Kamble, Mr. Siddharth R. Ghodke and Mr. Ramchandra Wagh, for the Applicant in ABA/1167/2025.

Mr. S. A. Karmakar, APP, for the Respondent No.1-State.

Ms. Komal Sinha, for the Respondent No.2.

Mr. Pradeep S. Bhabad, Head Constable-2459 attached to Saykheda Police Station, Tal. Niphad, Dist. Nashik, present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 29th SEPTEMBER 2025

PC:-

1. Heard Mr. Mundargi, learned Counsel appearing for the Applicants in Anticipatory Bail Application No.272 of 2025, Anticipatory Bail Application No.436 of 2025 and Anticipatory Bail Application No.661 of 2025, Mr. Rokade, learned Counsel appearing for the Applicant in Anticipatory Bail Application No.1167 of 2025, Mr. Karmakar, learned APP appearing for the Respondent No.1-State and Ms. Sinha, learned Counsel appearing for the Respondent No.2.

2. The Applicants are seeking pre-arrest bail in connection with C.R. No.200 of 2024 registered with Saykheda Police Station, Tal-Niphad, District-Niphad, for the offence punishable under Sections 118(2), 118(1), 76, 189(2), 191(2), 191(3), 190, 115(2), 352 and 351(3) of the Bharatiya Nyaya Sanhita, 2023 (“**BNS**”).

3. It is the submission of learned Counsel appearing for the Applicants that the Applicants have no role to play in the incident in question or allegations against the Applicants are not graver. It is their submission that the main allegations are against the accused No.1-Vishal Shivnath Gulve, who has been arrested and released on regular bail. It is further submitted that as far as accused No.5 - Bajirav Madhukar Gulve is concerned, a learned Single Judge by order dated 31st January 2025 has granted interim protection, to accused No.3-Shivnath Madhukar Gulve, a learned Single Judge has granted interim protection by order dated 28th February 2025 and the accused No.4 is granted interim protection by order dated 19th June 2025.

4. Learned APP, appearing for the Respondent-State and Ms. Sinha, learned Counsel appearing for the Respondent No.2 strongly oppose the grant of pre-arrest bail to the Applicants. They submitted that on 29th January 2025, the learned Judicial Magistrate First Class, Niphad, Dist. Nashik has issued proclamation under Section 84 of the Bharatiya Nyaya Suraksha Sanhita, 2023 (“**BNSS**”) against the Applicants. Both of them submitted that the Anticipatory Bail Applications are not

maintainable. To substantiate the said contention, they relied on the decision of the Supreme Court in the case of *State of Haryana vs. Dharamraj¹*, *Srikant Upadhyay & Ors. vs. State of Bihar & Anr.²*, *Abhishek vs. State of Maharashtra & Ors.³* and *Lavesh vs. State (NCT of Delhi)⁴*. They submitted that the offence is very serious and therefore, the Anticipatory Bail Applications be dismissed.

5. Perusal of the record shows that the incident in question took place on 27th August 2024, FIR has been lodged on 28th August 2024 and the chargesheet is filed on 26th November 2024. Perusal of the chargesheet shows that the chargesheet has been filed against all the accused. Thus, the investigation is completed.

6. As per the prosecution case, the Complainant-Hiraman Dashrath Handge is the owner of Gat No.268 and Gat Nos.279, 280 and 281 are belonging to Gulve family i.e. the Applicants. The FIR shows that there is dispute over road passing between all these Gat numbers. On 27th August 2024 an altercation took place between the Complainant's family and the Applicants' family

1 (2023) 17 SCC 510

2 (2024) SCC OnLine SC 282

3 (2022) 8 SCC 282

4 (2012) 8 SCC 730

resulting injuries to Hiranman Dashrath Handge, Bharat Dashrath Handge, Raghunath Dashrath Handge and Usha Raghunath Handge.

7. As far as the allegations against the accused No.1-Vishal Shivnath Gulve is that he has used weapon such as an axe and as far as the accused No.4-Rajendra Madhukar Gulve is concerned, the allegations are that he has used a wooden stick. The allegations against the other Applicants are that they have assaulted the injured with fist and kick blows.

8. Admittedly, the Applicants have no antecedents. The dispute has taken place as the road is passing between all these Gat numbers and work of construction of the said road was going on and therefore, some altercation took place between both these families. There is nothing to indicate that there is any pre-planning and the incident has taken place suddenly. As the chargesheet is filed, the investigation is completed.

9. Learned APP pointed out that the police is likely to carry out further investigation under Section 173(8) of the Code of Criminal Procedure, 1973.

10. Learned Counsel appearing for the Applicants submitted that all the Applicants will co-operate with the investigation.

11. As far as the contention that the proclamation has been issued and therefore, the Anticipatory Bail Application be rejected, it is required to be noted that the chargesheet has been filed on 26th November 2024. The chargesheet has been filed against all the accused including the Applicants. Thus, the investigation is completed.

12. Perusal of the record further shows that the accused No.5 has been granted interim protection by a learned Single Judge by order dated 31st January 2025, the accused No.3 has been granted interim protection by a learned Single Judge by order dated 28th February 2025, the accused No.4 has also been granted protection by order dated 19th June 2025. There is nothing to indicate that the protection which has been granted is misused.

13. As far as the contention that if the proclamation is issued under Section 84 of the BNSS, then the Applicants are not entitled for grant of pre-arrest bail, it is required to be noted that the Supreme Court has said that normally the Court should not exercise discretion to grant Anticipatory Bail, if proclamation is issued. However, this is a case where the chargesheet is already filed on 26th November 2024. The accused No.1 who has played major role has been arrested and he has been released on regular bail. As far as the accused Nos.3, 4 and 5 are concerned, they have been granted protection by the earlier orders.

14. In this particular case, as noted herein above, the incident has taken place suddenly. The Applicants have no antecedents. The incident taken place on account of construction of road and as the chargesheet is filed and investigation is completed, in the facts and circumstances, the case is made out for grant of Anticipatory Bail. In view thereof, the following order is passed:

ORDER

(a) In the event of arrest of the Applicants in connection with C.R. No.200 of 2024 registered with the

Saykheda Police Station, Nashik, the Applicants are directed to be released on bail on their furnishing P.R. Bond in the sum of Rs.25,000/- each with one or two solvent sureties each in the like amount.

- (b) The Applicants shall attend the concerned Police Station on 1st and 3rd Sunday of each month between 11:00 a.m. to 01:00 p.m. and shall cooperate with the investigation. In addition, the Applicants shall attend the concerned Police Station as and when called.
- (c) The Applicants shall furnish their cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicants shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.
- (e) The Applicants shall not tamper with the prosecution

evidence and shall not contact or influence the
Complainant or any witness in any manner.

15. The Anticipatory Bail Applications are disposed of
accordingly.

[MADHAV J. JAMDAR, J.]

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