

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

Anticipatory Bail Application No. 1735 of 2025

1. Dattatray Shrirang Nikalje
Age 51 years, Occ. Agri.
2. Aditya @ Ganesh Dattatray Nikalje
Age 25 years, Occ. Service,
3. Abhijeet Prakash Nikalje
Age 24 years, Occ. Service,
4. Yuvraj Shrirang Nikalje
Age 44 years, Occ. Labour,
5. Prakash Shrirang Nikalje
Age 58 years, Occ. Labour,
All R/at. Navin Gar, Tal. Daund,
Dist. Pune.

... Applicants
(Orig. Accused)

versus

The State of Maharashtra
(At the instance of Daund Police
Station, C.R. No.238 of 2025)

...Respondent

Mr Ghanshyam Jadhav, for the Applicants.
Mr Pankaj Deokar, APP, for Respondent / State.
GPSI B J Jadhav, Daund Police Station, Pune.

Coram: R.N. Laddha, J.

Date: 27 June 2025

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.238 of 2025, registered at Daund Police Station, Pune Rural, for offences punishable under Sections 190, 191(2), 189(2), 351(2), 352, 118(2), 115(2) of the Bharatiya Nyaya Sanhita (BNS), 2023.

2. The first informant lodged an FIR stating that on 18 March 2025 around 9:00 p.m., while he was conversing with his relatives Sanjay and Somnath Kamble near Hanuman Mandir regarding the Chairmanship of the upcoming Dr Babasaheb Ambedkar Jayanti programme, a dispute arose. The informant suggested that either Sanjay or Somnath take up the role since the previous year it was held by the Nikalje family. This was overheard by Yuvraj and Prakash Nikalje, who began verbally abusing them. When the informant tried to difuse the situation and head home, the applicants/ accused followed him. Applicant No.2-Aditya kicked him on the waist causing him to fall, after which Applicant No.3-Abhijeet struck him with an iron pipe, resulting in an injury near his left eye and a second blow to his right rib. The group assaulted him further with fists, kicks and targetted blows to his genitals, causing severe injuries.

3. The learned Counsel appearing on behalf of the applicants, asserts the applicants' innocence and contends that they have been falsely implicated in the present case. He further submits that a cross FIR was registered by Applicant No.4 against the informant and others, which was lodged prior in time to the FIR filed by the informant herein. The learned Counsel contends that the FIR filed by the informant is a retaliatory action, a counterblast, to the earlier FIR registered by Applicant No.4. He submits that Applicant No.4 sustained injuries during the incident.

4. On the other hand, the learned Additional Public Prosecutor representing the respondent/ State, opposes the applicant's request for grant of pre-arrest bail. He contends that the allegations levelled against the applicants are of a grave and serious nature, and that granting anticipatory bail at this juncture would adversely affect the ongoing investigation. The learned APP further submits that there is a substantial apprehension that, if released on anticipatory bail, the applicants may interfere with the course of investigation. He draws the Court's attention to the fact that the applicants have been explicitly named in the FIR, and that preliminary investigation has revealed their active and direct participation in the commission of the offence. Furthermore, there are

eyewitnesses to the incident. The learned APP also highlights that the weapon used in the commission of the offence has not yet been recovered.

5. It is a settled position in law that the power to grant anticipatory bail is an extraordinary. While it has been acknowledged in many instances that regular bail is considered a general rule, the same analogy cannot be applied to anticipatory bail. The decision to grant anticipatory bail must be exercised with careful and prudent discretion by the Court, considering each case's specific circumstances. A straitjacket formula cannot be applied. While exercising this power, the Court must exercise caution, as granting protection in serious cases could potentially lead to a miscarriage of justice or hinder the investigation by allowing tampering or destruction of evidence. A profitable reference in this regard can be made to the decision of the Hon'ble Supreme Court in *Srikant Upadhyay & Ors. v. State of Bihar & Anr.*¹

6. Upon perusing the records, it appears that applicants have been specifically named in the FIR, wherein it is alleged that they, in furtherance of their common intention, assaulted the informant. The version of events narrated by the informant

¹ 2024 SCC OnLine SC 282.

finds corroboration in the statements of eyewitnesses and is further supported by the medical papers. There appears to be sufficient material indicating the applicants' active participation in the commission of the alleged offence. Moreover, the weapon allegedly used in the crime has not yet been recovered.

7. Having regard to the totality of the circumstances, I am not inclined to exercise discretion in favour of the applicants. Accordingly, the application stands dismissed.

[R.N. Laddha, J.]