



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 455 OF 2026

Kamlesh s/o Vitthalrao Mahajan and anr.

..vs..

State of Maharashtra

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri Prakash Tiwari, Advocate for Applicants.
 Ms Charlewar, APP for Non-applicant /State.

CORAM : RAJ D. WAKODE, J.
DATED : 29.05.2026.

Heard learned Counsel for the applicants and
 learned Additional Public Prosecutor for the State.

2. In anticipation of arrest in Crime No.564/2026 registered on 26.05.2026 with Saoner Police Station, Nagpur Rural for the offence punishable under Sections 118(1), 3(5), 351(2), 352 of the Bharatiya Nyaya Sanhita, 2023, the applicants have prayed for pre-arrest protection

3. Learned Counsel for the applicants submits that the FIR came to be registered on 26.05.2026. However, the applicants approached the Sessions Court by filing an application on 28.05.2026 for grant of anticipatory bail, since 27.05.2026 was a holiday. The learned Sessions Court issued notices to the non-applicants and refused to grant ad-interim protection to the applicants vide order dated 28.05.2026 below Exhibit 3. Therefore, the applicants are before this Court by way of the present application.

4. Learned Counsel for the applicants submits that

there is a dispute regarding the agricultural boundary between the applicants and the complainant. Both the applicants and the complainant are neighboring landowners and are having a dispute. It is submitted that there is also a counter FIR lodged at the behest of Applicant No. 2 on 26.05.2026 against the father of the complainant bearing FIR No.0566 of 2026, for the offences punishable under Sections 118(1), 351(2), and 352 of the Bharatiya Nyaya Sanhita (BNS), 2023.

5. Learned Counsel for the applicants has relied upon the judgment of the Hon'ble Supreme Court in the case of ***Ganesh Asaram Thombre vs. State of Maharashtra and Ors. (SLP (CRL.) No.8680/2025) date 12.09.2025***, wherein, in a similar situation involving a case and counter-case pending against each other, it was held that the applicants were entitled to be released on anticipatory bail. Further, the learned Counsel for the applicants has invited my attention to the offences alleged against the present applicants, wherein the gravest offence is under Section 118(1), which is punishable with imprisonment for a term of three years. As per Section 35(3) of the BNSS, when the offence alleged against the accused is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, with or without fine, the Police Officer is under a bounden duty to issue notice directing the person against whom such complaint is made to appear before him or at such other place as may be specified in the notice. Failure to comply with such notice shall empower the Investigating Officer to arrest such person after obtaining orders from the competent Court.

6. The learned Counsel for the applicants has made a categorical statement that no such notice under Section 35(3) of the BNSS has been issued to the present applicants.

7. In view of the above facts and circumstances of the case, I am inclined to release the present applicants on *ad-interim* anticipatory bail till 02.06.2026. Hence the following order :

- (a) Issue notice to the Non-applicant(s), returnable on 02.06.2026. Learned APP waives notice on behalf of Non-applicant/State. .
- (b) In the event of arrest applicants 1. Kamlesh s/o Vitthalrao Mahajan and 2. Dhananjay s/o Vitthalrao Mahajan in Crime No.564/2026 registered on 26.05.2026 with Saoner Police Station, Nagpur Rural for the offence punishable under Sections 118(1), 3(5), 351(2), 352 of the Bharatiya Nyaya Sanhita, 2023 be released on *ad-interim* anticipatory bail till the returnable date, on their furnishing P.R. bond of Rs.30,000/- each with one solvent surety in the like amount.
- (c) The next date of hearing of the aforesaid Criminal Bail Application is scheduled before the learned Sessions Court on 02.06.2026. The learned Sessions Court shall proceed with the matter in accordance with law on its own merits.
- (d) Needless to mentioned that, the observations are *prima facie* in nature and the Trial Court shall not be influenced by the same .

- (e) The Applicants/Accused shall co-operate with the Investigating Agency.
- (f) The Applicants/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- (g) The Applicants/accused shall provide his residential address and cell number to the concerned Investigating Officer where they intend to reside.
- (h) Breach of either of condition would give rise to the prosecution to move this Court for cancellation of bail.

(RAJ D. WAKODE, J.)