

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, NASHIK,**  
**AT – NASHIK.**

**(Presided over by Mr. M. H. Shaikh)**

**Criminal Bail Application No.326 of 2022**

**CNR No.MHNS010010602022**



1. **Dnyaneshwar Pandurang Khalkar**  
Age : 60 years, Occ : Agriculture
2. **Sopan Pandurang Khalkar**  
Age : 55 years, Occ : Agriculture
3. **Balu @ Mangesh Pandurang Khalkar**  
Age : 41 years, Occ : Agriculture
4. **Prasad Dnyaneshwar Khalkar**  
Age : 21 years, Occ : Agriculture
5. **Tukaram Digamber Khalkar**  
Age : 46 years, Occ : Agriculture

All R/o : Khalkar Mala, Old Chehadi  
Road, Nashik-Road Tal. And  
Dist. Nashik.

.. Applicants/Accused.

**V/S**

State of Maharashtra  
Through – PI, Nashik Road  
Police Station (C.R. No. I – 9/2022) .. Respondent/State.

**Appearance :**

Ld. Adv. Shri. Pravin R. Shejwal for Applicants/Accused.  
Ld. A.P.P. Shri. Sachin Gorwadkar for Respondent/State.  
Ld. Adv. Shri. Sujit R. Borade for Complainant/Intervener.

**ORDER BELOW EXH. No.1**  
**(Delivered on 15<sup>nd</sup> March, 2022)**

1. This is an application filed under Section 439 of Criminal

Procedure Code for grant of bail in C. R. No. I - 9/2022 registered with the respondent Nashik Road Police Station for an offence punishable under Sections 326, 324, 504, 506. 143, 147, 148, 149 of the Indian Penal Code.

2. Perusal of the F.I.R. reflects that the incident occurred on 06.01.2022 at 1:30 p.m. in front of the house of the complainant. It is alleged in the FIR that, as the complainant did not withdraw the Civil Appeal filed against the applicants, therefore, the applicants were abusing the complainant. The complainant asked them not to abuse, on this quarrel took place and these applicants assaulted the complainant and her relatives, who came to rescue her with iron rods, sticks etc. and injured the complainant and the witnesses. The matter came to be reported to the Police.

3. It is the case of the applicants/accused that, they are innocent and have not committed any offence. Investigation is practically completed. There are dependents upon the applicants. No purpose will be served in keeping the applicants behind the bar. There is a Civil dispute between the parties, who are relatives of each other. There are cross complaints filed by the parties with the Police. Nothing is to be recovered or discovered at the instance of the applicants. Case is triable by the Ld. J.M.F.C. Applicants/Accused are ready to abide by the terms and conditions. Therefore, prayed to allow the application.

4. Respondent filed their say vide Exh.9 and reiterated the contents of the F.I.R. and the investigation carried-out by them. The grounds for rejection are that, the offence is serious in nature,

applicants/accused may tampered the evidence and also threatened the witnesses and pressurized them. One accused who is absconding is yet to be arrested. Therefore, prayed to reject the application.

5. In this matter, complainant intervened. She filed her say vide Exh.8 and objected for grant of bail.

6. Heard Ld. Advocate for the applicants/accused, Ld. A.P.P. for the State and Ld. Advocate for complainant/intervener. Gone through the entire material placed on record and so also the authorities relied by Ld. Advocate for the applicants, which are as follows :-

(a) “Vinod Bhavarlal Mohata v/s State of Maharashtra, reported in LAWS (BOM) 2010 3 96 by the Hon’ble Bombay High Court, in Criminal Application No.677 of 2010, decided on 05<sup>th</sup> March, 2010”.

(b) “Vivek Dwarkanath Shinge v/s State of Maharashtra, reported in LAWS (BOM) 2012 1 133 by the Hon’ble Bombay High Court, in Criminal Bail Application No.34 of 2012, decided on 30<sup>th</sup> January, 2012”.

(c) “Bashishth Singh v/s State of Bihar, reported in LAWS (SC) 2001 2 176 by Their Lordship Supreme Court of India, in Criminal Appeal No.230 of 2001, decided on 26<sup>th</sup> February, 2001”.

7. Upon hearing and going through the material placed on record, what can be gathered is that, initially offence under Section 324 of I.P.C. was leveled and thereafter Section 326 of I.P.C. came to be added. Initially, three accused persons came to be arrested and were produced before the Ld. J.M.F.C. Complainant appeared before the Ld. J.M.F.C., therefore interim bail was granted to them and thereafter interim bail was made absolute. As Section 326 of I.P.C.

came to be added, therefore it seems that the Ld. J.M.F.C. was pressed to grant bail to those three accused persons, who were arrested.

8. Ld. Advocate for applicants submitted that, the Ld. J.M.F.C. rejected the bail application of these applicants. The Ld. J.M.F.C. did not consider the rule of parity while rejecting the bail application. This Court has gone through the order granting bail to the three accused persons to whom bail was granted and the order rejecting the bail application of these applicants. This Court finds that, the ground of parity will not come into picture in the case in hand, because the bail was granted to those three accused persons on a different footing i.e. they were granted bail under Section 324 of I.P.C. and later on Section 326 of I.P.C. was added and no custodial interrogation was necessary.

9. As far as the seriousness of offence is concerned, the Ld. Advocate for complainant has filed the order of rejection of anticipatory bail of the Hon'ble High Court of these applicants. The Hon'ble High Court held that, there is an involvement of these applicants in the Crime. This Court has gone through the photographs filed by the complainant on record. Perusal of those photographs reflects that, these applicants assaulted the complainant and her husband and the relatives by iron-rod, stick, hockey sticks and by fists blows. The injury certificates filed on record reflects that, the husband of the complainant sustained grievous injury and a fracture to his hand, whereas complainant was hit on her head and she suffered skull injury. The photographs reflect that, the applicants are assaulting the complainant, her husband and their relatives. The

applicants and the complainant are relatives of each other and are residing in the same vicinity. Moreover, one accused who is a Police is absconding, since the date of offence. He is also seen in the photograph assaulting. The anticipatory bail application of said absconding accused is rejected by this Court as well as by the Hon'ble High Court. Though the case is triable by the Ld. J.M.F.C. still this Court finds that, it is punishable for life imprisonment. Therefore, in such a scenario this Court is of a considered view that as the offence alleged is serious in nature and the parties are residing at the same vicinity and the absconding accused is yet to be arrested. Therefore, this Court finds that at this juncture, it will not be wise to invoke discretion in favour of the applicants.

10. As far as, the authorities relied by Ld. Advocate for the applicants is concerned, those are on the point of parity. This Court has already observed in the above paragraph that the ground of parity is not applicable to the case in hand. Therefore, the authorities relied by Ld. Advocate for the applicants being on different facts is not applicable to our case in hand.

11. For the forgoing reasons and discussion this Court is of considered view that the application fails. Hence, the order.

**ORDER**

Criminal Bail Application No.326/2022  
is rejected and disposed off accordingly.

Place : Nashik.  
Date : 15/03/2022

**(M. H. Shaikh)**  
Additional Sessions Judge, Nashik.