

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

ANTICIPATORY BAIL APPLICATION NO. 342 OF 2021

Sachin Zumberrao Gaikwad Applicant

Versus

The State of Maharashtra Respondent

Mr. Aniket Ujjwal Nikam a/w. Aashish Satpute, Piyush Toshnival
i/b. Vivek Arote for Applicant.

Smt. A. A. Takalkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 26th FEBRUARY, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 602 of 2020 registered with Yevala Police Station, Nashik, under section 25(4) of the Indian Arms Act.

2. Heard Shri. Aniket Nikam, learned counsel for the applicant and Smt. Takalkar, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged on 19/12/2020 by P.S.I. Manohar More. He has stated that, on that day in the evening, police officer received a secret information that, present applicant had celebrated his birthday and at that time, he had a sword in his possession. He had cut the cake using that sword. On this basis, the F.I.R. was lodged.

4. Shri. Nikam submitted that the investigating agency is referring to an old incident which has taken place in the year 2017. That time, a photograph was clicked showing that the applicant was having a sword in his hand for cutting the cake. He submitted that, after three years that photograph is being used by the investigating agency to connect the present applicant with the fresh F.I.R. registered in December, 2020. No such incident had taken place in the year 2020.

5. Learned APP, on instructions of the investigating officer, fairly submitted that the incident of cutting cake with sword was pertaining to the year 2017. In December, 2020 nothing

was found and the applicant was not found cutting cake. She has produced the investigation papers before me. There are statements of two eye witnesses namely Rahul Ahire and Nilesh Shinde. They also referred to the incident dated 29/12/2027 when the applicant had allegedly cut the cake with a sword. The investigation papers include a photograph showing applicant with a sword in his hand with cake in front of him. That photograph is also in respect of the incident of 2017, as submitted by the learned APP, on instructions of the investigating officer.

6. I have considered these submissions. The photograph speaks for itself. There are two eye witnesses. Therefore, at this stage, there is sufficient material with the investigating agency to show that the applicant had held a sword in the year 2017 on the occasion of his birthday. However, the allegations in the F.I.R. in respect of similar incident in December, 2020 are not supported by the investigation carried out in that direction. The applicant's conduct of holding sword at the time of cutting cake on his birthday cannot be justified, but it is an old incident. Three years

have passed. Since then there was no complaint for about three years. Therefore, the investigation can go on and the applicant will face the prosecution. But after three years his custodial interrogation in respect of that incident is not really required. Learned APP has submitted that the applicant has many antecedents against him. In this view of the matter, it would be necessary for the applicant to attend the concerned police station regularly for some period. Hence, though I am inclined to grant anticipatory bail in this application, certain conditions will be imposed on the present applicant.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 602 of 2020 registered with Yevala Police Station, Nashik, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- (ii) The Applicant shall attend the concerned Police Station on 09/03/2021, 10/03/2021 and 11/03/2021 between 1:00 p.m. to 5:00 p.m. and shall cooperate with the investigation. In addition, the applicant shall attend the concerned police station as and when called and shall co-operate with the investigation.
- (iii) In addition to this, the applicant shall also attend the concerned police station every fortnight for a period of one year from today.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)