

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

ANTICIPATORY BAIL APPLICATION NO.1605 OF 2021

Sunny Dilip Gadge

.. Applicant

Versus

State of Maharashtra

.. Respondent

.....
Mr.R.V. Gupta, Advocate for the Applicant.

Ms.Veera Shinde, APP for the Respondent – State.
.....

CORAM : PRAKASH D. NAIK, J.

DATED : JULY 28, 2021.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.242 of 2021, registered with Vinoba Bhave Police Station, Mumbai, for the offences punishable under Sections 307, 323 and 504 read with 34 of Indian Penal Code ("IPC", for short).

2 This is second application for anticipatory bail. The previous application was withdrawn vide order dated 2nd July, 2021.

3 Learned counsel for the applicant submitted that while adjudicating the previous application, the prosecution has

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relied upon the CCTV Footage which shows the presence of the applicant and on that basis the Court was not inclined to grant the application. However, subsequently, the applicant collected the CCTV Footage, which exonerate him. In the entire recording, except presence of the applicant, no role has been assigned to the applicant. There are no criminal antecedents. He further submitted that the applicant has been falsely implicated in this case.

4 Learned counsel for the applicant submitted that the presence of the applicant establishes at the end of the offence. There are statements of witnesses to support the prosecution case. The complainant has attributed role to the applicant. Discrepancies, if any, in the evidence cannot be considered at this stage. The previous application was rejected by this Court. The Court was not inclined to grant relief in the previous application. The panchanama about the CCTV footage of the place of incident being viewed by the complainant, was recorded on 15th July, 2021, and, the complainant has suggested at some point of time, he was pushed he has to move back as a result of which he has not seen in the camera. Learned APP submitted that on 29th June, 2021 and 1st July, 2021, attempts were made to collect the CCTV

footage from the shop keepers, which received subsequently, and, thereafter the panchanama dated 15th July, 2021, was recorded. Custodial interrogation of the applicant is necessary.

5 Undisputedly, the role of assault is attributed to other persons. Applicant was not armed with any weapon. Applicant is seen at the place of incident. The CCTV footage recorded during the course of investigation undoubtedly does not show applicant having played an active role, except the fact that he was present at the place of incident. There are no criminal antecedents against the applicant. Hence, application can be allowed.

:: ORDER ::

- (i) Anticipatory Bail Application No.1605 of 2021, is allowed;
- (ii) In the event of arrest of the applicant in connection with C.R.No.242 of 2021, registered with Vinoba Bhave Police Station, Mumbai, he be released on bail on executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

- (iii) Applicant shall report investigating officer on 2nd, 3rd and 4th August, 2021, between 11:00 a.m. to 01:00 p.m., and, thereafter, as and when called for;
- (iv) Applicant shall not tamper with the prosecution evidence. He shall not threaten the complainant and other witnesses;
- (vi) Anticipatory Bail Application No.1605 of 2021, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)