

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.538 OF 2022**

Suhas Patil .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. Vedchetan Patil with Mr. Sunayana Kashid for the applicant.

Mr. P.H. Gaikwad, A.P.P. for the State.

Mr. Tatya Sawanji, PSI attached to Virar Police Station is present.

CORAM: SMT. BHARATI DANGRE, J.

DATED : 01ST MARCH, 2022.

P.C:-

1. Heard learned counsel for the applicant and perused the copy of the FIR, copy of the NCR under Section 155 of the IPC dated 16/12/2021. Learned A.P.P. has also placed on record, the documents of investigation.

2. The applicant is arraigned as accused in C.R. No.0105 registered with Virar Police Station, which invokes Section 395, 342, 506 of the IPC and 3 and 25 of the Arms Act, 1959. The complainant, on whose say the CR is registered is one Nivrutti S. Patil and, in his complaint, he has referred to an incident dated

15/12/2021 at around 11.00 p.m., which occurred at Usgaon near the office of Shramjivi Sanghatana. The complainant, who drive a Scorpio car and is engaged in the activity of providing conveyance of the employees in a company narrate that, while he was present at Usgaon near the office, an Innova bearing No.MH 48 BH 9005 was stranded on the road and it was being reversed. It is his version that he drove his Scorpio car from the side of the road and overtook the Innova.

At that relevant time, it is alleged that the Innova and one Maruti Swift car bearing No. MH 48 BH 0472 followed him and he was intercepted. It is further alleged that 5 to 6 people got alighted from the Innova whereas, 4-5 people stepped down from the Maruti Swift car and jointly started assaulting him.

The incident is narrated in detail and, it is stated that in the incident, a gold chain and one finger ring worth Rs.10,000/- was forcibly removed from him and by means of a weapon, he was stabbed on his back, which resulted in he vomiting blood and he became unconscious. He reported about the said incident to his brother and was taken to Mandavi Police Chowki, where a NC came to be registered.

An NC, to which a reference has been made vide No.467 of 2021 is placed on record along with the application and it refer to the same incident but in a different way. He give the same incident, bereft of his assault, robbery, etc.

The explanation of the complainant is to the effect that since he was petrified, he did not narrate the same in detail and

that is why, the NC was registered. The further narration is that he was taken to the hospital on 17/12/2021 and on 18/12/2021 he was again reported to Mandavi Police Station, where one of the accused i.e. Suhas Patil (the applicant) was present there. The complainant states that he was admitted in Omkar Hospital, Kudus, for two days i.e. from 19/12/2021 to 21/12/2021 and, therefore, he filed the application after discharge.

3. A perusal of the NC dated 16/12/2021, in contrast to the complaint, narrates a complete a different version about the same incident. The complainant Nivrutti Patil states that on Usgaon Road at around 23.30 hours, the driver of Innova bearing No.MH 48 BH 9005 and two other persons accompanying him, intercepted them and, thereafter, they overtook his vehicle and when the complainant enquired as to why they were asking him to stop, it is alleged by him that he was assaulted by fist and blows and this resulted in registration of a NC.

4. Admittedly, the NC do not refer to the assailant or the incident of he being robbed of his golden ornaments. The same incident, which has been reported for registration of NC is subsequently reported in the form of complaint on 28/01/2022 i.e. after a passage of almost more than a month with a modified version.

In order to verify it's authenticity, when the medical papers, which are placed on record by learned A.P.P. are perused,

it reflects that on 17/12/2021, the complainant approached Omkar Hospital, Kudus, District Palghar, a private hospital run by a BHMS Doctor, who certified that he examined Nivrutti Patil and referred to Blunt Trauma and he was also advised X-ray and follow up.

5. As per the FIR, the complainant was admitted in Omkar Clinic for 2 days i.e. from 19/12/2021 to 21/12/2021. However, the medical papers on record are the papers from one Rajamata Trust Hospital and the indoor case papers along with the certificate issued by the concerned doctor certify that Nivrutti Patil was admitted in the hospital on 21/12/2021 with a history of multiple bruises and abrasions, beaten by 7 to 8 people. Pertinent to note that the said certificate certify that MLC was done outside.

This disparity in the medical treatment papers and the version of the complainant, which prompted the authorities to register the FIR is at variance about he was stabbed in the stomach and back, which made him vomit blood. The medical papers however, do not reflect any indication to that effect. In the wake of the above, since the NC which was lodged at an earlier point of time and, after 45 days the FIR is filed, which is an improved version of the story, in my opinion, the custodial interrogation of the applicant is not warranted. The applicant is, therefore, released on bail in the event of his arrest subject to the following condition:

ORDER

- (a) In the event of arrest, the applicant – Suhas Patil shall be released on bail in C.R. No.0105 of 2022 registered with Virar Police Station, on executing P.R. bond to the extent of Rs.25,000/- and furnishing one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.
- (c) The applicant shall report to the Virar Police Station on 7/03/2022 and 10/03/2022 between 10.00 a.m. and 02.00 p.m. and thereafter as and when directed by the investigating officer.

6. The anticipatory bail application is allowed in the aforestated terms.

7. All parties are directed to act on the downloaded copy of the order supplied by the advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]