

AGK

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

ANTICIPATORY BAIL APPLICATION NO.1097 OF 2023

Amol Popat Wagh	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Virendra V. Pethe for the applicant.

Mrs. Rutuja Ambekar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JUNE 8, 2023

PC.:

1. Apprehending arrest in connection with C.R. No.177 of 2022 registered with Manmad City Police Station, District Nashik for the offences punishable under Section 307, 504, 506, 109 and Section 34 of the Indian Penal Code, 1860 and Section 4 read with Section 25 of the Indian Arms Act and Section 135 of the Bombay Police Act, the applicant is seeking pre-arrest bail.

2. First information report is lodged by Nana Alias Santosh Sitaram Zalte alleging that on 9 July 2022 when he was proceeding on a bridge of new Municipal Corporation, the co-accused and unknown person came their. When the informant was trying to save himself from the pothole, he had quarrel with accused no.1 who assaulted the applicant with sickle, resulting in grievous injury to the informant. The role attributed to the

applicant is that he was accompanying accused no.1 and instigated him to kill the informant.

3. The applicant, therefore, filed application under Section 438 of the Criminal Procedure Code before the Sessions Court, which has been rejected by order dated 9 December 2022. Aggrieved thereby, the applicant has filed present anticipatory bail application.

4. This Court on 17 April 2023 protected the applicant.

5. Learned advocate for the applicant submitted that there is no active role attributed to the applicant. Only role attributed is accompanying accused no.1.

6. Per contra, learned APP submitted that the applicant was carrying arm and has antecedents to his credit.

7. Having considered the material on record, it appears that no active role is attributed to the applicant. First information report along with material on record indicates that he accompanied accused no.1 and instigated him to kill the informant. The antecedents are of the years 2015 and 2018 for offence punishable under Sections 394, 379 read with Section 34 of the Indian Penal Code, 1860.

8. Therefore, in my opinion, custodial interrogation of the applicant is not necessary. Hence, following order:

a) In the event of arrest in connection with C.R. No.177 of 2022 registered with Manmad City Police Station, District Nashik for the offences punishable under Section 307, 504, 506, 109 and Section

34 of the Indian Penal Code, 1860 and Section 4 read with Section 25 of the Indian Arms Act and Section 135 of the Bombay Police Act, the applicant be released on bail on furnishing P.R. bond in the amount of Rs.50,000/- along with one or two sureties in the like amount;

b) The applicant shall remain present before the concerned investigating officer on 12, 14 and 16 June 2023 between 11.00 a.m. to 2.00 p.m., and thereafter, as and when called by the investigating officer.

c) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

d) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

e) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

9. The anticipatory bail application, therefore, stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)