

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

ANTICIPATORY BAIL APPLICATION NO. 1987 OF 2024

Avinash Tukaram Sawant

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Sanad Vijay Desai a/w Mr. Sanjay Khale and Mr. Rahul Naidu, for Applicant.
- Mr. Balraj B. Kulkarni, APP for Respondent – State.
- Mr. Sharad Gulab Dethe, PSI, Kankawali Police Station.

CORAM : MANISH PITALE, J.

DATE : 06th August, 2024.

P. C. :

1. Heard Mr. Sanad Desai, learned counsel for the applicant and Mr. Balraj Kulkarni, learned APP for the respondent – State.

2. On 26th July, 2024, this Court granted interim relief in favour of the applicant and imposed the following conditions.

- “A. Till the next date, in the event the applicant is arrested in connection with FIR No.1079 of 2024 dated 03.06.2024 registered with Kankawali Police Station, District – Sindhudurg, he shall be released on bail on furnishing PR Bond of Rs.25,000/- [Rupees Twenty Five Thousand Only] with one or two sureties in the like amount;*
- B. The applicant shall not enter District Sindhudurg during the pendency of the present application, except for remaining present before the investigation officer, as*

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directed below;

- C. The applicant shall appear before the investigating officer on 29.07.2024 and 30.07.2024 between 10: a.m. and 12 noon and thereafter as and when required by the investigating officer;*
- D. The applicant shall co-operate with the investigation;*
- E. The applicant shall not influence the informant, witness or any person concerned with the case and he shall not tamper with the evidence.”*

3. The learned counsel for the applicant submits that in terms of the directions issued by this Court, the applicant appeared before the Investigating Officer on the specific dates and co-operated with the investigation. It is further submitted that he has already furnished PR Bond of ₹ 25,000/- in terms of the condition imposed by this Court.

4. The learned APP submits that he has instructions to state that the applicant has not cooperated with the investigation. It is further submitted on the basis of the investigation papers made available for perusal of this Court that there are eye witnesses to the incident and statements indicate the involvement of the applicant in the incident in question.

5. As regards co-operation with investigation, it is not disputed that the applicant has indeed remained present before the Investigating Officer. It cannot be expected that the applicant, who is an accused, would be admitting

guilt and then only it can be said that there is cooperation on his part. Therefore, it cannot be said that the applicant has not cooperated with the investigation.

6. As regards statements of the eye witnesses, this Court has perused the same. The description of the incident and the role of the applicant has been described more or less in the manner in which the first informant has described the same in his statement, which led to registration of the FIR.

7. As noted in the order dated 26th July, 2024, the allegations in the statement of the first informant against the applicant do indicate his presence, but his role has been described in general terms. The statements of the eye witnesses also describe his role in the same manner.

8. In the present case, the incident occurred during the course of a meeting of Grampanchayat of which the applicant is also a member. In the manner in which the incident is described, what comes to the fore is that violence did take place, which resulted in injuries, but specific overt act which led to head injury to the victim is ascribed to a co-accused person and not the applicant. At worst, it is alleged against the applicant that he was present and that he assaulted by way of fists and kicks. Considering the number of persons present at the time of the incident, as also the general allegations made against the applicant, this Court is inclined to allow the present application and to

confirm the interim order dated 26th July, 2024, granted in favour of the applicant.

9. In view of the above, the application is allowed and interim order dated 26th July, 2024 is confirmed, with a direction to the applicant to continue to co-operate with the investigation and to abide by the other conditions quoted hereinabove, till filing of the charge-sheet.

(MANISH PITALE, J.)