

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

Anticipatory Bail Application No. 1410 of 2024

Vijay Bhima Gondake
Age 25 years, Occ. Service in
Police Department, R/at. Flat No.601,
Om Chintamani Residency,
Ganpati Mandir Road, Titwala(E),
District – Thane.

..Applicant

Vs.

The State of Maharashtra
(At the instance of Kalyan Taluka
Police Station, District Thane)

..Respondent

Mr. Aadesh Konde Deshmukh, for the Applicant.
Mr. Yogesh Y. Dabake, APP for the Respondent – State.
PSI Hemant Supekar, Kalyan Taluka Police Station present.

**Coram : R. N. Laddha, J.
Date : 16 July 2024**

P.C.

The applicant seeks pre-arrest bail in CR No.220 of 2024, registered with Kalyan Taluka Police Station, Thane, for the offences punishable under Sections 353, 332, 504 and 506 of the Indian Penal Code.

2. The prosecution alleges that on the day of the incident, the applicant caused disturbance at the petrol pump. Consequently, the police were called for help. Upon arriving at the scene, the informant was heavily intoxicated. The applicant claimed to be

police officer and questioned the informant's presence. Subsequently, the applicant physically confronted the informant, slapping him twice. Despite efforts from family members, the applicant remained uncooperative. Upon being taken to the Government hospital, the applicant continued to argue with medical staff and even tore up the medical memo.

3. Mr Aadesh Konde-Deshmukh, the learned Counsel appearing on behalf of the applicant, contends that the applicant has not committed the alleged offense and is falsely implicated in the present crime. On the day of the incident, the applicant was assaulted by the informant. When the informant learnt that the applicant intended to file a complaint, the present false FIR was lodged. The applicant has permanent residence and immovable properties, making it unlikely that he would flee from the course of law. The applicant is willing to cooperate with the investigation. Furthermore, the applicant has worked in the police department for the past 14 years without any complaints or misbehaviour. He is prepared to comply with any conditions imposed upon him for granting pre-arrest bail and is also ready to cooperate with the investigation.

4. On the other hand, Mr Yogesh Dabake, the learned Additional Public Prosecutor representing the respondent/ State, contends that there is prima facie evidence against the applicant. The ongoing investigation requires the applicant's presence for

custodial interrogation to unfurled the prosecution case. The offence is serious. If the applicant is granted anticipatory bail, there is a risk of tampering with the prosecution's evidence.

5. Upon perusing the records, it is evident that the applicant, a police constable, was fully aware of the consequences of his actions. Contrary to the perception that an ordinary person made an error, the applicant, under the influence of alcohol, initiated a dispute at the petrol pump. When police assistance arrived, he assaulted a uniformed police officer. Despite efforts by relatives to calm him down, he remained belligerent. This incident was captured on CCTV. The injury certificate supports the informant's claim of assault by the applicant. Furthermore, at the hospital where he underwent a medical examination, the applicant continued his offensive behaviour by tearing up the medical memo and verbally abusing medical staff, obstructing government work.

6. It is a settled position in law that the power to grant anticipatory bail is extraordinary. While it has been acknowledged in many instances that regular bail is considered a general rule, the same analogy cannot be applied to anticipatory bail. The decision to grant anticipatory bail must be exercised with careful and prudent discretion by the Court, considering each case's specific circumstances. A straight jacket formula cannot be applied. While exercising this power, the Court must exercise

caution, as granting protection in serious cases could potentially lead to a miscarriage of justice or hinder the investigation by allowing tampering or destruction of evidence. A profitable reference in this regard can be made to the decision of the Hon'ble Supreme Court in *Shrikant Upadhyay & Ors. v. State of Bihar & Anr.*¹

7. Considering the allegations and having regard to the fact that the investigation is at a nascent stage, this Court is not inclined to grant the anticipatory bail to the applicant.

8. Accordingly, the application stands rejected.

[R. N. Laddha, J.]

1 2024 SCC OnLine SC 282.