

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

ANTICIPATORY BAIL APPLICATION NO. 1480 OF 2024

Saifu Rehman Habib ... Applicant
Versus
The State of Maharashtra ... Respondent

Mr. Tapan Thatte a/w Mr. Vivek Arote and Mr. Mangesh Nadhe
for the Applicant.

Ms. Rutuja Ambekar, APP for Respondent-State.

**CORAM: MANISH PITALE, J.
DATE : 25th JUNE 2024**

P.C. :

. Heard learned counsel for the applicant and learned APP for respondent-State.

2. By this application, the applicant seeks protection from arrest in connection with FIR No. 0517 of 2022 dated 14th June 2022 registered at Wakad Police Station, Dist. Pimpri-Chinchwad, for offences under Sections 307, 341, 336, 323, 504, 506, 143, 147, 148, 149, 427 of the Indian Penal Code, 1860, Section 4(25) of the Arms Act, 1959, Sections 37(1)(3) read with 135 of the Maharashtra Police Act, 1951 and Sections 3 and 7 of the Criminal Law (Amendment) Act, 2013.

3. It is brought to the notice of this Court that the co-accused persons were arrested and they have been subsequently released on bail.

4. The principal submission raised on behalf of the applicant is

that the role attributed to the applicant is limited. There is not even an allegation of assault by means of any weapon and that the sequence of events that occurred after the initial role attributed to the applicant should not operate to his detriment. It is submitted that even the informant while describing the role of the applicant merely stated that the applicant got down from his two wheeler and assaulted the victim by way of fist.

5. The learned APP has strongly opposed the present application. It is submitted that the FIR was registered as far back as on 14th June 2022 and that the applicant has been avoiding the process of law. It is submitted that the regular bail granted to the co-accused persons cannot be inure of the benefit of the applicant. On last occasion, hearing was adjourned for the learned APP to take instructions as to what steps were taken by the Police in order to apprehend the applicant, since more than two years elapsed from the date of registration of the FIR.

6. The learned APP has informed this Court and produced relevant papers to indicate that sufficient efforts were made to trace the applicant as he has been absconding. It is further brought to the notice of this Court that the applicant filed the anticipatory bail application before the Sessions on in February 2024 and that he is avoiding the process of law.

7. This Court has considered the material on record and the rival submissions. The statement of the informant shows that the

violence, in the facts of the present case, was initiated when the applicant got down from his two wheeler and started assaulting the victim. Thereafter, the co-accused persons assaulted the victim with weapons, including sickle (*koyta*) resulting in injuries. It is also specifically alleged that the applicant along with the co-accused persons while leaving after inflicting violence on the victim allegedly proclaimed that they were “bhais” and that nobody could do anything to them. The record shows that the FIR having been registered on 14th June 2022, the applicant could not be traced. The other co-accused persons were arrested, although they were subsequently released on regular bail. It was in February 2024 that for the first time the applicant filed the application before the Sessions Court, seeking anticipatory bail.

8. The material on record gives an impression to this Court that the applicant has been avoiding the process of law. Despite efforts being made, he could not be traced and in this situation, it cannot lie in the mouth of the applicant that since he was not served with summons, his absence and his not joining the legal process ought not to be held against him.

9. Considering such application favourably would give premium to the act of such accused persons avoiding the process of law and this cannot be permitted. Hence, no case is made out for grant of anticipatory bail and the application is rejected.

MANISH PITALE, J.