

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1546 OF 2024

Rahul Ashok Pandey	...	Applicant
Vs.		
State of Maharashtra	...	Respondent

Mr. Anand Pande a/w. Mr. Prashant Jain i/b. Mr. Sachin Pandey for Applicant.
Ms. Megha S. Bajoria, APP for Respondent-State.
Mr. S. S. Singh for Informant-Intervener.
Mr. Sagar Tilekar, P.I., Naigaon Police Station, Mira-Bhayandar, Vasai-Virar
Commissionerate.

CORAM : MANISH PITALE, J.
DATE : JULY 08, 2024

P.C. :

1. Heard Mr. Pande, learned counsel for the applicant and Ms. Bajoria, learned APP for the respondent-State. Mr. Singh, Advocate, having instructions to appear for the first informant, is also heard.

2. The applicant is apprehending arrest in connection with FIR No.0124 of 2024 dated 14.03.2024 registered with Naigaon Police Station, District - Mira Bhayander, Vasai Virar, for offences under Sections 323, 326 and 504 r/w. Section 34 of the Indian Penal Code, 1860 (IPC).

3. As per the first informant, in an incident that took place on 17.09.2023, the applicant and two other accused persons launched an assault, due to which, the informant suffered injury and fracture to his fingers, thereby giving rise to cause of action for him to approach the police for registration of the FIR.

4. The learned counsel for the applicant submits that this is a case concerning cross FIRs. Attention of this Court is invited to FIR dated

18.09.2023 registered at the behest of the applicant for the very same incident, which occurred on 17.09.2023. It is submitted that on the basis of the information given by the applicant, the said FIR was registered against unknown persons, but later during the course of investigation, the accused persons were identified and arrested, one of whom is the informant, who has caused the registration of the subject FIR. It is submitted that the said FIR in which the applicant has been arraigned as accused is registered after about six months of the date of the incident.

5. It is submitted that in the present case, the informant was arrested in connection with the FIR registered at the behest of the applicant and after he was released on bail, clearly as an after-thought and a counterblast, the subject FIR has been registered. Reference is also made to the documents placed on record, showing the extent of injuries suffered on the head of the applicant at the time of the incident and on this basis, it is submitted that in the present case, this Court may grant anticipatory bail as the applicant is ready to co-operate with the investigation.

6. On the other hand, the learned APP produced investigation papers to show that the informant in the present case did suffer injuries on his fingers, showing a fracture to one of his fingers. It is submitted that the medical documents on record do indicate that the informant in the present case also suffered injuries and that a specific role is attributed to the applicant in that regard. It is submitted that the subject FIR was registered after the informant was released on bail in connection with the FIR registered at the behest of the applicant.

7. The learned advocate, having instructions to appear for the informant, supported the submissions made by the learned APP and he submitted that the custody of the applicant is necessary.

8. Having perused the papers and upon hearing the learned counsel for the applicant, this Court finds that there is a considerable delay in registration of the subject FIR on 14.03.2024, pertaining to the incident dated 17.09.2023. The record clearly shows that the informant, in this case, is an accused in the FIR registered at the behest of the applicant with regard to the said incident. The FIR registered at the behest of the applicant was immediately registered on 18.09.2023, just past midnight, while the incident is said to have taken place in the afternoon of 17.09.2023. The documents on record show that in the incident, the applicant suffered a head injury, which resulted in a mild depressed fracture of left parietal bone and also hematoma.

9. The informant, in the present case, was arrested in connection with the said FIR registered at the behest of the applicant. Subsequently, he was released on bail.

10. Considering the fact that the subject FIR has been registered after about six months of the incident, *prima facie*, it appears to be a counterblast and an after-thought to the FIR registered against the informant at the behest of the applicant. It is not as if the subject FIR, being a cross FIR regarding the same incident, was registered in proximity of time to the FIR dated 18.09.2023 registered at the behest of the applicant. The Sessions Court appears to have completely ignored this aspect of the matter, while considering the anticipatory bail application filed by the applicant. There is nothing to indicate that the applicant has any criminal antecedents or that he is a flight-risk and in any case, the applicant has undertaken to co-operate with the investigation. Hence, the application deserves to be allowed.

11. In view of the above, the application is allowed in the following terms:-

A. In the event the applicant is arrested in connection with FIR

No.0124 of 2024 dated 14.03.2024 registered with Naigaon Police Station, District - Mira Bhayander, Vasai Virar, he shall be released on bail on furnishing PR Bond of Rs.15,000/- [Rupees Fifteen Thousand only] with one or two sureties in the like amount;

- B. The applicant shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 10.07.2024 and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and she shall not tamper with the evidence.

12. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

13. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab