

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
ANTICIPATORY BAIL APPLICATION NO. 1613 OF 2024**

|                          |     |            |
|--------------------------|-----|------------|
| Waseem Khan Lateef Khan  | ... | Applicant  |
| vs.                      |     |            |
| The State of Maharashtra | ... | Respondent |

Mr. Karan Singh Rajput a/w. Mr. Fauzan Shaikh for applicant.

Mr. Sagar R. Agarkar, APP for respondent-State.

Mr. V. G. Avhad, PSI, Police Station Manmad, District Nashik.

**CORAM : MANISH PITALE, J.**

**DATE : 01<sup>st</sup> JULY, 2024**

**P.C. :**

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

2. The applicant is apprehending arrest in connection with FIR No.I-172 of 2018 dated 26.09.2018 registered at Police Station Manmad, District Nashik, concerning offences under Sections 302 and 307 of the Indian Penal Code, 1860 (IPC) alongwith other offences. There are more than 30 accused persons in the present case.

3. FIR was registered at the behest of wife of the victim, who was brutally assaulted and suffered as many as 49 injuries. There are 18 eye-witnesses, whose statements have been recorded. The chargesheet records that the applicant has remained absconding, despite efforts made to trace him.

4. The Sessions Court, while rejecting the application for anticipatory bail, took note of the fact that the victim was brutally assaulted and even regular bail applications of about 15 accused persons were rejected by the Court.

5. The learned counsel for the applicant submitted that although the FIR in the present case, was registered as far back as on 26.09.2018, as also despite the fact that the applicant was always available, no effort was made to apprehend him, for the reason that the statements of witnesses recorded during the investigation and even the statement of first informant, refer to one Waseem Bambaiwala, while the applicant is Waseem Khan. It is submitted that when there was confusion about the name of a co-accused person, this Court, by an order dated 02.02.2023 (Coram: N. R. Borkar, J) passed in Bail Application No.1891 of 2022, granted bail to the said co-accused person.

6. It is submitted that the applicant is ready to co-operate with the investigation and therefore, the present application deserves to be allowed, particularly because of the prevailing confusion about the identity of the accused person, who has been named as Waseem Bambaiwala by the first informant herself.

7. On the other hand, the learned APP vehemently opposed the prayer of the applicant and submitted that the applicant has always remained absconding and despite efforts made for about past six years, he could not be apprehended.

8. It is brought to the notice of this Court that as regards criminal antecedents, there are three FIRs registered against the applicant in Police Station Shivajinagar, District Thane for serious offences, including offence under Section 307 of the IPC.

9. This Court has perused the material on record. The first informant and the eye-witnesses have described the incident, where the victim was

brutally assaulted. In the process, they have indeed named the accused persons including Waseem Bambaiwala. The statement of the co-accused person recorded in the memorandum executed under Section 27 of the Evidence Act, refers to Waseem Khan as also Waseem Bambaiwala.

10. The FIR was registered as far back as on 26.09.2018 and it is specifically stated in the chargesheet that efforts were made to trace the applicant accused, but he remained absconding. The learned APP has invited attention of this Court to the fact that the applicant is also the resident of Govandi, Shivajinagar, Mumbai and he could not be apprehended because he has avoided the process of law. It is pertinent to note that three FIRs are registered against the applicant at Police Station Shivajinagar, indicating the criminal antecedents of the applicant. It cannot be said at this stage that the prayer for anticipatory bail can be granted, merely because the applicant submits that there is confusion as to whether the person named by the first informant and the eye-witnesses, is the applicant or not. The fact that the applicant has remained untraceable for such a long period of time, cannot be a factor inuring to his benefit, while pressing for anticipatory bail.

11. As regards the aforesaid order passed in favour of the co-accused person on the ground of confusion as to the name of the said accused person, it is to be noted that the said order granted regular bail to the co-accused person. Hence, it cannot inure to the benefit of the applicant in the facts and circumstances of the present case.

12. In view of the above, the application is dismissed.

**(MANISH PITALE, J)**