

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

Anticipatory Bail Application No.2093 of 2024

Sanket Ganesh Tandel,
Age: 23 years, Occ: Service,
R/at Room No.403,
Anantdrushti Apartment,
Plot No.824, Sector-1,
Shiravane Gaon,
Nerul, Navi Mumbai
v/s.

... Applicant

The State of Maharashtra
through Nerul Police Station

... Respondent

Mr Irfan Shaikh, for the Applicant.
Mr Amit A Palkar, APP, for Respondent State.
PSI Sameer Katpale, Nerul Police Station, is present.

Coram: R.N. Laddha, J.
Date: 29 July 2024

P.C.:

Heard Mr Irfan Shaikh, the learned Counsel for the applicant and Mr Amit Palkar, the learned Additional Public Prosecutor representing the respondent/ State.

2. This application has been filed by the applicant seeking anticipatory bail in connection with CR No.395 of 2024, registered at Nerul Police Station, Navi Mumbai, for the offences punishable under Sections 307, 324, 323, 504, and 506 read with 34 of the Indian Penal Code.

3. In the FIR, it is alleged that the informant agreed to purchase a mobile phone for the co-accused's son, the applicant, on loan. The parties agreed that the co-accused, Ganesh Tandel, would pay the instalments for this loan. The co-accused failed to pay the instalments, leading to the informant closing the loan. Despite repeated demands for reimbursement, the co-accused provided evasive responses. Later, on the midnight of 17 June 2024, the co-accused promised to settle the outstanding dues and the informant visited the applicant's house with his relative. However, the applicant and the co-accused, in furtherance of their common intention, assaulted the informant and his relative with the intent to kill them using a bamboo stick and beer bottle, resulting in grievous injuries.

4. Mr Irfan Shaikh, the learned Counsel appearing on behalf of the applicant, contends that the applicant was not present at the time of the alleged incident, as evidenced by the Call Detail Records (CDR). The informant, however, has concealed the reality of another transaction between him and the co-accused, Ganesh Tandel, involving a Toyota Innova car. According to the learned Counsel, since the informant could not repay the car loan, he offered the co-accused, Ganesh, to purchase the car. They agreed that Ganesh would make the payments, and once he settled the loan and obtained a No-Objection Certificate (NOC) from the bank, the informant would transfer the car to Ganesh's name. Ganesh took possession of the car, fulfilled his part and repaid the loan. However, when Ganesh requested the NOC and

ownership transfer, the informant unexpectedly demanded Rs.50 lakhs. Ganesh's refusal led to verbal abuse and threats from the informant.

5. Further, Mr Shaikh argues that on the night of 17 June 2024, the informant approached the applicant's residence and contacted the applicant's father, Ganesh, requesting an audience. Subsequently, the applicant received a call from his father, co-accused Ganesh, informing him that the informant, along with others, arrived and attempted to kill him. After reaching home, the applicant found his father in an injured condition. The learned Counsel submits that the applicant has been falsely implicated in the crime and has no criminal antecedents. Moreover, there are no allegations that the applicant assaulted the informant on vital body parts.

6. On the other hand, Mr Amit Palkar, the learned Additional Public Prosecutor representing the respondent/ State, submits that the investigation is in progress. The weapon used in the crime by the applicant has not yet been recovered, necessitating the applicant's custody for further investigation. The statements of the eye-witnesses explicitly indicate the applicant's involvement in the crime, and the intention to commit the offence is evident from the available material.

7. 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

8. After reviewing the records, it appears that the applicant stands accused of assaulting both the informant and the witness using a bamboo stick. The eye-witnesses corroborate the applicant's involvement in the crime. The injury certificate indicates that the informant sustained grievous injury to the vital part of the body. A specific role has been attributed to the applicant. The weapon used in the crime has not yet been recovered. The investigation is at a nascent stage. The applicant's defense, suggesting an alternative reason for filing the present FIR, cannot be appreciated at this stage. Given the severity of the offence and the fact that the investigation is ongoing, the learned APP's contention that this is not a fit case for granting anticipatory bail is justified.

9. In view of the above, the application stands rejected.

(R.N. Laddha, J.)

1 2024 SCC OnLine SC 282.