

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2300 OF 2024**

Sandesh Magan Choudhary	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Samay Pawar for applicant.

Ms. Megha S. Bajoria, APP for respondent-State.

Mr. P. S. Deokar, API, Koregaon Park Police Station, Pune City.

**CORAM : MANISH PITALE, J.
DATE : 10th SEPTEMBER, 2024**

P.C. :

. Heard Mr. Pawar, learned counsel for the applicant and Ms. Bajoria, learned APP for the respondent-State.

2. This application for anticipatory bail is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) as the applicant apprehends arrest in connection with FIR No. 0116 of 2024 dated 12.07.2024 registered with Koregaon Park Police Station, District Pune City, for offences under Sections 3(5) and 132 of the Bharatiya Nyaya Sanhita, 2023 (BNS). The offence under Section 132 of the BNS pertains to assault or criminal force to deter public servant from discharge of his duty.

3. The informant in the present case is a *Tahsildar*, who had alleged that when he and his team were acting in pursuance of directions issued by this Court for removing encroachments, the applicant, termed as an encroacher in the FIR, obstructed the informant / *Tahsildar* from performing his duties and that the applicant allegedly incited other encroachers against the informant, who was performing his official duty.

4. The learned counsel for the applicant points out that by order dated 08.08.2024 passed in Anticipatory Bail Application No.2209 of 2024

(**Basantkumar Kapoorchand Jain vs. State of Maharashtra**), this Court granted anticipatory bail to co-accused person. Hence, relief is sought on the ground of parity.

5. The learned APP submits that the presence of the applicant is very much established by the statement of the informant, although it is conceded that co-accused persons were indeed granted anticipatory bail by this Court.

6. Perusal of documents on record at Exhibit D i.e. provisional possession receipt dated 30.01.2012; a letter dated 06.05.2013 issued by the official from the Department of Revenue and Forest to the Collector, Pune; as also a recent communication dated 15.06.2024 issued by the Deputy Secretary from the Department of Revenue and Forest, Government of Maharashtra to the Deputy Commissioner of Police, Pune, indicate that the authorities themselves have recognized the co-accused as a person authorizedly in possession of the land in question. In fact, the document at Exhibit E, being the communication dated 15.06.2024, requests the Deputy Commissioner of Police, Pune, to provide police help and *Bandobast* to the co-accused for protecting the land in question. It is significant to note that a copy of the said communication was marked to the *Tahsildar* i.e. the informant in the present case.

7. In this backdrop, when the statement of the informant is perused, it shows that when the drive to remove the encroachment was undertaken, the applicant and the co-accused, being “encroachers”, obstructed the informant / *Tahsildar* from performing his official duty. The basic premise on which the informant has proceeded, *prima facie*, appears to be fallacious and hence, the allegations made against the applicant appear to be without much substance.

8. Considering the aforementioned official documents brought to the

notice of this Court, as also the fact that the Division Bench of this Court specifically took note of the claims made by the co-accused with regard to the land in question, the allegation made against the applicant of being an encroacher *prima facie* appear to be without much substance.

9. In view of the above, the applicant has made out a strong *prima facie* case in his favour and hence the application deserves to be allowed.

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

- (a) In the event the applicant is arrested in connection with in connection with FIR No.0116 of 2024 dated 12.07.2024 registered with Koregaon Park Police Station, District Pune City, he shall be released on bail on furnishing PR Bond of ₹ 25,000/- with one or two sureties in the like amount;
- (b) The applicant shall remain present before the investigating officer as and when called by the investigating officer and he shall co-operate with the investigation;
- (c) The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

11. 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.

12. The application is disposed of.

(MANISH PITALE, J)