

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2436 OF 2024**

Samir Shyamrao Chavan	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Balasaheb Deshmukh for applicant.

Mr. Balraj B. Kulkarni, APP for respondent-State.

Mr. Sagar Gaikwad, HC, Rajgad Police Station, District Pune Rural.

**CORAM : MANISH PITALE, J.
DATE : 22nd OCTOBER, 2024**

P.C. :

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

2. The hearing of this application was adjourned yesterday as there was some confusion about injury certificate pertaining to the applicant himself. This is in the backdrop of the fact that the present case pertains to cross-FIRs, indicating that there are two versions of the same incident.

3. Today, the learned counsel for the applicant took specific instructions to explain as to the copy of injury certificate relied upon by him, which indicated that the applicant had suffered grievous hurt, while the injury certificate produced by the learned APP recorded that the applicant had suffered simple injury. This Court is satisfied that in the facts and circumstances of this case, it cannot be alleged that there was any false

statement made on behalf of the applicant. Even if this Court is to proceed on the basis that the applicant suffered simple injury, it is to be noted that the injury was inflicted on the parietal region of the head of the applicant.

4. The applicant is apprehending arrest in connection with FIR No.0348 of 2024 dated 11.07.2024, registered at Rajgad Police Station, District Pune Rural, for offences under Sections 118(1), 189(2), 190, 191(2), 191(3), 351(2), 351(3), 351(4) and 352 of the Bharatiya Nyaya Sanhita, 2023 (BNS).

5. The informant in the present case, has stated that when he and his brother went to meet the uncle of the applicant to complain about his behaviour on the date of the incident, the applicant allegedly appeared on the scene and assaulted the informant's brother on his nose and head with a wooden stick. This caused injuries to the brother of the informant, who had to be taken to hospital for treatment.

6. The learned counsel for the applicant submitted that the said FIR was registered on 11.07.2024 at 16:43 hours as regards an incident that occurred on 09.07.2024 at 08:30 p.m. It was submitted that with regard to the very same incident, the applicant had caused an earlier FIR to be registered with the same police station, bearing No.0345 registered on 10.07.2024 at 21:36 hours. It was submitted that the subsequent FIR registered at the behest of the informant, can be said to be an after-thought and a counterblast to the earlier FIR registered at the behest of the applicant.

7. It was further submitted that in the said incident, the informant and his brother came to the house of the applicant. They were the aggressors, as the brother of the informant used a wooden stick to assault the applicant on

his head due to which he suffered injury. Thereafter, the co-accused persons assaulted him by fists and kicks. It was submitted that in such a situation, a cross-FIR being registered and there being two versions of the same incident, this Court may consider granting anticipatory bail to the applicant, as he undertakes to co-operate with the investigation. It was submitted that the offences under Sections 118(1) and 118(2) of the BNS, both are non-bailable and it is not clear as to what action was taken against the accused persons in the FIR registered at the behest of the informant.

8. On the other hand, the learned APP submitted that in the subject FIR, the informant has given detailed reasons as to why he could not get the FIR registered prior to 11.07.2024. The informant was busy in attending his brother, who was injured in the incident. Therefore, it cannot be said that there is delay in registration of FIR. It was submitted that in the subject FIR, specific allegations have been made against the applicant and the injury certificate shows that the victim indeed suffered grievous injury, thereby indicating that the ingredients of the offences registered against the applicant, are clearly made out. It is submitted that therefore, this Court may not show any indulgence.

9. The aforesaid submissions have been considered in the light of the two FIRs registered in respect of the incident in question. There are indeed two versions of the same incident. The record also shows that the FIR registered at the behest of the applicant is prior in point of time, as compared to the subject FIR registered at the behest of the informant. It is also to be noted that the versions in both the FIRs show that the place of incident was near the house of the applicant. To that extent, there is substance in the contention raised on behalf of the applicant that the informant in the present

case and his brother alongwith others, reached the house of the applicant in the backdrop of the earlier incident that had taken place on the same day. *Prima facie*, it could be said that the informant in the present case, alongwith others having arrived at the house of the applicant, resulted in the aforesaid incident. It was not as if the applicant had pursued the informant and his companions, in the backdrop of the earlier incident of the day, but to the contrary, the members of the other party reached the house of the applicant.

10. As much as there is material to show that the victim concerning the present FIR suffered injury, there is material to indicate that the applicant himself suffered head injury on the parietal region of his head. As to whether it can be classified as simple or grievous injury, would be a matter of further investigation or trial. But, it cannot be denied that the applicant himself suffered head injury. This does indicate that a scuffle took place on the date and time of the incident, which occurred when the informant and his companions reached the house of the applicant. Considering the said sequence of events, this Court is inclined to grant relief to the applicant, subject to the applicant co-operating with the investigation.

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

- (i) In the event the applicant is arrested in connection with FIR No.0348 of 2024 dated 11.07.2024, registered at Rajgad Police Station, District Pune Rural, he shall be released on bail on furnishing PR Bond of ₹ 25,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
- (ii) The applicant shall remain present before the Investigating Officer on 25.10.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer.

- (iii) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.
- (iv) The applicant shall co-operate with the investigation and also in the proceedings before the trial court.

12. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

13. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

14. The application stands disposed of.

(MANISH PITALE, J)

Priya Kambli