

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

Anticipatory Bail Application No.2471 of 2024

Vijay Hariprasad Tiwari,
Aged 35 years, Occupation:
Self Employed Room No.603,
Shantineketan Building, Near
Pawar Public School, Kandivali
West, Mumbai - 67

...Applicant

v/s.

1) The State of Maharashtra
Senior Police Inspector,
(Through Borivali Police Station)

2) Dr Athirek Rajkumar Sharma,
Add: 702, Green Street, Bldg.,
Borivali (W), Mumbai – 92,
S.V. Road, Surbhi Hotel

...Respondents

Mr Dravidar BT, for the Applicant.
Ms Supriya Kak, APP, for Respondent State.
Mr Ashish Shukla, for the Intervenor.
API SF Dombale, Borivali Police Station, is present.

Coram: R.N. Laddha, J.
Date: 30 September 2024

P.C.:

The applicant has approached this Court seeking

anticipatory bail in connection with CR No.566 of 2024, registered at Borivali Police Station, Mumbai, for offences punishable under Sections 316, 137, 115(2), 309, 351(3), 352 and 324 read with 3 of the Bharatiya Nyaya Sanhita, 2023.

2. The prosecution alleges that the informant gave Mihir, the co-accused, two Mercedes-Benz cars to sell. However, the co-accused damaged the vehicles, stole their parts and refused to return one of the cars to the informant. On 1 July 2024, the co-accused forcefully kidnapped the informant and took him to Surbhi Hotel, where the armed applicant threatened the informant with severe consequences if he demanded his car. It is also alleged that the applicant and co-accused assaulted the informant with fist blows.

3. Mr Dravidar BT, the learned Counsel appearing for the applicant, contends that the applicant, a car dealer, had an oral arrangement with the co-accused and the informant where the informant agreed to pay the applicant parking charges for displaying his car. The informant failed to honour his financial obligation and falsely implicated the applicant in the present crime. The learned Counsel emphasises the

significant one-month unexplained delay in lodging the FIR. The applicant has no criminal antecedents. He submits that the alleged car has already been recovered from the co-accused, Mihir, who has already been released on bail. As there is nothing to be recovered or discovered from the applicant, his custody is not required. The applicant is ready to comply with any conditions the Court imposes.

4. Ms Supriya Kak, the learned Additional Public Prosecutor representing the respondent/ State and Mr Ashish Shukla, the learned Counsel appearing for the intervenor, in unison submit that the offence is severe. The learned APP further submits that the investigation is nearing completion. Although the car has already been recovered, the learned APP expresses reservations about granting pre-arrest bail to the applicant as he may tamper with the evidence or influence the witnesses.

5. After perusing the records, it is evident that the alleged incident occurred on 1 July 2024, and the FIR was filed only on 30 July 2024. This delay in lodging the FIR remains unexplained. *Prima facie*, the record does not indicate if the informant sustained any injuries from the alleged assault.

Additionally, vehicle in question has been seized from the co-accused, Mihir, who has been granted bail. The investigation is approaching its conclusion, and there is nothing to be recovered or discovered from the applicant. The prosecution's apprehension about evidence tampering and witness influence can be addressed by imposing suitable conditions. In the circumstances, this Court is inclined to grant pre-arrest bail to the applicant. Hence, the following order:

ORDER

(i) In the event of the applicant's arrest in CR No.566 of 2024, registered at Borivali Police Station, Mumbai, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall attend the concerned police station as and when required.

(iii) The applicant, himself or through

any other person, shall indulge in any activity that may tamper with the evidence or influence the witnesses.

6. The application stands disposed of accordingly.

(R.N. Laddha, J.)