

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

ANTICIPATORY BAIL APPLICATION NO. 2522 OF 2024

Anil Kalu Patil

...Applicant

Versus

The State of Maharashtra

...Respondent

- Ms. Anusha Amin i/b Mr. Chintan Shah, for Applicant.
- Mr. R.M. Pethe, APP for Respondent.

CORAM : MANISH PITALE, J.

DATE : 20th SEPTEMBER, 2024.

P. C. :

1. Heard, Ms. Amin, learned counsel for the applicant and Mr. Pethe, learned APP for the State.

2. The applicant is apprehending arrest in connection with First Information Report No.0261 of 2024, dated 26.06.2024, registered at Wada Police Station, District Palghar, for offences under Sections 332, 353, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. At the outset, the learned counsel for the applicant submits that co-accused person i.e. the wife of the applicant was granted anticipatory bail by this Court by order dated 29.08.2024, passed in Anticipatory Bail Application No.2252 of 2024. The applicant herein is claiming relief on the ground of parity, as the role attributed the applicant as well as the co-accused person already granted relief, is virtually the same. In order to appreciate the

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said contention, this Court has perused the documents on record.

4. The informant in the present case is an employee of the Maharashtra State Electricity Distribution Company Limited (hereinafter referred to as the company). It is stated that the informant is working as *Vidhyut Sahayyak*, which can be roughly translated as Electrical Assistant. He claimed that on the date and time of the incident, when he was doing the work of recovery of the electricity bills, he received a call on his mobile from the applicant and when he went to the shop of the accused persons and informed them that he had partly paid their electricity bill by cash and partly online, the accused persons assaulted him and the specific role attributed to the applicant is that he threatened the informant. It is claimed that since the informant was discharging his official duty when the aforesaid incident occurred, the said offences have been registered against the accused persons.

5. The learned APP confirms the fact that the co-accused person i.e. the wife of the applicant is already granted anticipatory bail by this Court and that the role attributed to both the accused persons can be said to be identical except for the fact that, as against this applicant a further allegation of threat having been given to the informant is also alleged.

6. In the order dated 29.08.2024 passed in Anticipatory Bail Application No.2252 of 2024, this Court had observed as follows :

- “6. *This Court has considered the material on record, in the light of the rival submissions. For offences under Sections 332 and 353 of the IPC to be registered, the basic requirement is that the aggrieved person should be a public servant, who is discharging his duty as such public servant, when the incident in question occurs. In the present case, it can be said on the basis of the statement of the informant that he is a public servant, as he works on the post of Electrical Assistant with the said company. But the crucial aspect is, as to whether it could be said that the informant in the present case at the time of the incident, was discharging his duty as public servant.*
7. *Even if the statement of the informant, which led to registration of FIR, is to be accepted as it is, the informant himself has stated that as an Electrical Assistant, his duty is to ensure maintenance of electricity supply in the village. Prima facie, recovery of arrears towards electricity bill amounts does not fall within the scope of his duty as Electrical Assistant. In any case, even if such duty was to be performed by the informant, it would be difficult to accept that as Electrical Assistant, it was his duty to collect amounts and that too, in cash from the consumers of electricity like the accused herein and then, to make the amount over to the said electricity distribution company. As per the statement of the informant himself, he took cash amount from the accused persons, part of which he allegedly deposited with the company in cash and the remaining amount was transferred online.*

8. *Prima facie, the aforesaid acts of the informant himself do not appear to be forming part of discharge of his duty as public servant and hence, the basic ingredients of Sections 332 and 353 of the IPC cannot be said to be made out.*
9. *If that be so, the incident becomes a simple incident between individuals, wherein the only overt act attributed to the applicant is that she allegedly slapped the informant. There is no allegation of use of any weapon and considering the injury report, at worst, it could be said to be a case of simple hurt being caused to the informant. Therefore, there is substance in the contention raised on behalf of the applicant that this could be said to be a case under Section 334 of the IPC pertaining to voluntarily causing hurt on provocation, which itself is a bailable offence.”*

7. This Court is convinced that the reasoning quoted hereinabove would apply with equal force to the case of the applicant in the present application. Hence, the present application also deserves to be allowed.

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

- (A) In the event the applicant is arrested in connection with FIR No.0261 of 2024 dated 26.06.2024 registered at Wada Police Station, District Palghar, she shall be released on bail on furnishing PR Bond of ₹ 15,000/- with one or

two sureties in the like amount to the satisfaction of the trial Court.

- (B) The applicant shall remain present before the Investigating Officer, as and when required by the Investigating Office.
- (C) The applicant shall not tamper with the evidence of the prosecution in any manner. She shall not influence the informant, witnesses and other persons concerned with the case.
- (D) The applicant shall co-operate with the investigation and also in the proceedings before the Trial Court.

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

10. 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.

11. The application stands disposed of.

(MANISH PITALE, J.)