



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2599 OF 2024**

Sanjay Bhagwan Nikam	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Amit A. Gharte, for Applicant.
Mr. H.J.Dedhia, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 10 OCTOBER 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.782 of 2023 registered at Malegaon Taluka Police Station for the offences punishable under Sections 323, 324, 326, 504 and 506 read with Section 34 of the Indian Penal Code, 1860.
3. At the outset, learned Counsel for the Applicant invited attention of the Court to an order dated 22 April 2024 whereby this Court was persuaded to grant pre-arrest bail to co-accused Bhagwan Mahadu Nikam, Ravindra Bhagwan Nikam and Bhikubai Bhagwan Nikam. Learned Counsel submits that there is not much qualitative difference between the role attributed to the applicant and the said co-accused.
4. Learned APP resisted the prayer for pre-arrest bail. It was submitted that one of the injured Dhanraj has sustained grievous injury. The applicant

had allegedly assaulted the first informant and Dhanraj by means of a knife and, therefore, the applicant does not deserve pre-arrest bail. A copy of the injury certificate of Dhanraj was tendered for the perusal of the Court.

5. While granting pre-arrest bail to co-accused, this Court had, inter alia, observed as under :

“3. By an order dated 19 December 2023 this Court had granted interim bail opining, inter alia, as under :

“6. *Prima facie, it appears that in respect of one and the same occurrence, two versions have been reported. Role of assault by means of knife is attributed to co-accused Sanjay Nikam. The applicants had allegedly assaulted the first informant and the injured by means of fist and kick blows. In the circumstances, till the application is decided after providing an effective opportunity to the prosecution, it may be expedient to grant interim protection to the applicants.*”

4. Learned Counsel for the Applicants submits that pursuant to the aforesaid order, the applicants have appeared before the IO and co-operated with the investigation.

5. The allegations against the applicants are that of assaulting the members of the informant party by means of fist and kick blows.

6. Learned APP tendered the injury certificates of Ramdas and Samadhan. Ramdas and Samadhan appear to have sustained simple injuries.

7. As noted in the interim order, in respect of one and the same occurrence, two versions have been reported. In the circumstances of the case, which of the

party was the aggressor would warrant adjudication at the trial. Thus, having regard to the role of the applicants, further custodial interrogation of the applicants does not seem warranted. I am, therefore, persuaded to make the order of interim bail absolute.”

6. I have perused the injury certificate of Dhanraj. Injured Dhanraj appears to have sustained injury on the left hand. Injury certificate records that on examination, radial artery rupture was noticed, and ulna was found to have been fractured. Dhanraj had sustained only one injury. The other injured Ramdas and Samadhan had sustained simple injuries.

7. Evidently, in respect of one and the same occurrence, two versions were reported. The members of the accused party, in the instant case, had also sustained injuries. The applicant had lodged a report vide C.R.No.781 of 2023, prior in point of time. As noted in the aforesaid order, the question as to which of the party was aggressor would warrant adjudication at the trial.

8. I am, therefore, inclined to hold that the custodial interrogation of the applicant is not warranted. The applicant is entitled to the same dispensation as has been extended to the co-accused.

9. Hence, the following order :

ORDER

- (i) The Application stands allowed.
- (ii) In the event of the arrest of the Applicant – Sanjay Bhagwan

Nikam, in connection with C.R.No.782 of 2023 registered with Malegaon Taluka Police Station, the Applicant be released on bail on furnishing a PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

(iii) The Applicant shall co-operate with the investigation and report to the Dahisar Police Station as and when directed.

(iv) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

(v) The Applicant shall regularly attend the proceedings before the jurisdictional Court.

Application disposed.

(N.J.JAMADAR, J.)