

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2749 OF 2024

Sushant Narayan Bhagat ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Sumit Khaire for Applicant.
Ms. R. V. Newton for Respondent-State.
Mr. S. S. Londhe, H.C., Supa Police Station.

CORAM : MANISH PITALE, J.
DATE : OCTOBER 11, 2024

P.C. :

. Heard Mr. Khaire, learned counsel for the applicant and Ms. Newton, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0164 of 2024 dated 09.06.2024 registered with Supa Police Station, District - Pune Rural, for offences under Sections 143, 147, 148, 149, 294, 307, 308, 504 and 506 of the Indian Penal Code, 1860 (IPC).

3. There are total five accused persons in the present case. The informant has described the incident in detail, wherein the informant as well as his brother were assaulted by the accused persons. The brother of the informant was seriously injured on his head and the informant is also said to have been injured.

4. The learned counsel for the applicant submits that even though the applicant has been named as one of the assailants, the only role attributed to him is that of having kicked the brother of the informant and also indulging in abusing the informant (victim) as well as his brother. It is brought to the notice of this Court that the co-accused

person, who allegedly used iron spatula, has been arrested and the weapon is also recovered. It is submitted that the other remaining co-accused persons have been granted regular bail by the Sessions Court by a recent order dated 25.09.2024. It is further submitted that in such a situation, since the applicant undertakes to co-operate with the investigating authority, no purpose would be served by taking physical custody of the applicant.

5. On the other hand, the learned APP submits that the specific overt act attributed to the applicant, apart from abusing the victim is that, when the brother of the victim had suffered serious head injury due to the assault launched by the co-accused person, the applicant kicked the injured victim, thereby revealing his intention. It is submitted that therefore, this Court may not show any indulgence to the applicant.

6. This Court is of the opinion that the role attributed to the applicant is distinct from that of the other co-accused persons. The weapon used in the assault has been recovered at the behest of the co-accused person, who used the said weapon and he is still behind bars. The other co-accused persons have been granted regular bail. Considering the overt act attributed to the applicant of having abused the victims and having kicked one of them, custody of the applicant would not be required for recovery of any weapon of assault. In any case, the weapon of assault has already been recovered at the behest of the co-accused person, who is still behind bars. This Court is inclined to allow the application as the applicant undertakes to co-operate with the investigating authority.

7. Hence, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0164 of 2024 dated 09.06.2024 registered with Supa Police Station, District - Pune Rural, he shall be released on bail on furnishing PR Bond of Rs.25,000/- 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 on 14.10.2024 between 10:00 a.m. and 12 noon and thereafter, as and when required by the investigating officer. He shall co-operate with the investigating officer during the course of 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.

10. 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.

11. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab