

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

ANTICIPATORY BAIL APPLICATION NO. 2777 OF 2024

Amol Sahebrao Ukhade (Ukharde)	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Ramesh D. Patil i/by Jay & Co. for the Applicant.
Mr. Tanveer Khan, APP for Respondent-State.
Mr. Dilip Khedkar, API, Nashik Taluka Police Station,

CORAM: MANISH PITALE, J.
DATE : 17th OCTOBER 2024

P.C. :

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

2. The hearing of this application was adjourned on the last occasion, in order to enable the learned APP to produce the investigation papers, particularly injury certificates pertaining to the informant and his mother.

3. The learned APP produced the investigation papers, which includes an injury certificate pertaining to the mother of the informant. There is no injury certificate as regards the informant himself.

4. The allegation in the statement, leading to registration of the FIR, is that the applicant and co-accused persons assaulted the informant and his mother in respect of a dispute pertaining to an

access road between agricultural lands belonging to the rival parties.

5. It is in connection of the aforesaid FIR bearing No. 0167 of 2024 dated 12th August 2024 registered at Nashik Taluka Police Station, Dist. Nashik, for offences under Sections 115(2), 118(1), 3(5), 351(2) and 352 of the Bharatiya Nyaya Sanhita, 2023 (BNS), that the applicant is seeking anticipatory bail.

6. The learned counsel for the applicant has highlighted the contradictions in the description of the incident given by the informant and the injury certificate pertaining to the mother of the informant. He has also invited attention of this Court to a Report of Non-Cognizable Offence (NCR), registered at the behest of the co-accused person, i.e. the brother of the applicant, with regard to the very same incident, against the informant and his family members. It is alleged that the NCR itself could be got registered with great difficulty, as the Police did not immediately take note of the grievance raised by the brother of the applicant. Reliance is also placed on a certificate issued by a private hospital, showing that on the date of the incident, the brother of the applicant had suffered injury on his right hand. On this basis, it was submitted that this Court may consider allowing the present application, as the applicant undertakes to cooperate with the investigation.

7. On the other hand, the learned APP submits that the description of the incident in the statement of the informant is

very clear. Specific allegation has been made against the co-accused persons, including the applicant herein. It is alleged that in view of use of spade in order to assault the informant, no indulgence may be shown to the applicant.

8. This Court has heard the rival contentions in the light of the material brought on record. This Court is inclined to allow the application for the following reasons :

- (a) The statement of the informant, leading to registration of the FIR, attributes specific role to the applicant of having assaulted him by way of a spade. Yet, there is no injury certificate on record to show that the informant indeed suffered any injury.
- (b) The only injury certificate on record of the investigation papers, pertains to the mother of the informant. Here again a contradiction is noticed, in as much as, the statement of the informant alleges that the brother of the applicant i.e. the co-accused person, assaulted the mother of the informant by means of knife on her right cheek. But, the injury certificate, while referring to an injury on the cheek of the mother of the informant, in the history records that she was assaulted by means of a spade. *Prima facie*, there is contradiction between the injury certificate and the statement of the informant, which led to registration of the FIR.

- (c) There is indeed a copy of an NCR on record, showing that the brother of the applicant had approached the Police with regard to the very same incident making allegations against the informant and his family members. This indicates that a scuffle may have been taken place in the light of the dispute regarding the access road.
- (d) There is a medical certificate, although issued by a private hospital, showing that the brother of the applicant had indeed suffered injury to his right hand on the very date of the incident. This further supports the contention raised on behalf of the applicant that there was a scuffle between the two groups, in the context of the dispute pertaining to the access road.
- (e) The applicant is ready to cooperate with the investigation.

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

- (a) In the event the applicant is arrested in connection with FIR No. 0167 of 2024 dated 12th August 2024 registered at Nashik Taluka Police Station, Dist. Nashik, he shall be released on bail on furnishing PR Bond of Rs.25,000/- and 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 19th October 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer. The applicant shall cooperate with the investigation.

(c) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses or any other person concerned with the case.

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.

11. The application is disposed of.

MANISH PITALE, J.