

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

ANTICIPATORY BAIL APPLICATION NO. 2778 OF 2024

Sandeep Tukaram Abhonkar	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Ramesh D. Patil a/w Ashish Gabhale and Iraa D. Patil i/by Jay & Co. for the Applicant.

Mr. Mayur S. Sonavane, APP for Respondent-State.

**CORAM: MANISH PITALE, J.
DATE : 15th OCTOBER 2024**

P.C. :

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

2. The applicant is apprehending arrest in connection with FIR No. 0238 of 2024 dated 9th September 2024 registered at Malegaon Chhavani Police Station, Dist. Nashik, for offences under Sections 352, 351(2), 3(5), 115 and 109 of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. The FIR is registered on a statement given by the informant on 9th September 2024 describing an incident that took place in the night on 6th September 2024 and in the wee hours in the morning of 7th September 2024. It is alleged that there was quarrel, leading to a scuffle in the night of 6th September 2024

between two groups of individuals and thereafter, on 7th September 2024 at about 1:30 a.m., the applicant along with the co-accused persons, assaulted the victim (informant) initially by fists and kicks and thereafter, by means of a solid object, used as a weapon.

4. The learned counsel for the applicant submits that this is a case of cross FIRs and that for the same incident, subsequent FIR bearing No. 0239 of 2024 was registered on 11th September 2024 at the very same Police Station, wherein the applicant himself is the informant. It is submitted that the applicant suffered serious injuries, during the scuffle that the informant in the present case, himself has referred to as the incident which occurred in the night on 6th September 2024. It is submitted that the applicant having suffered serious injuries was taken to hospital, where he underwent treatment and therefore, there is no question of the applicant being present when the informant was allegedly assaulted at about 1:30 a.m. on 7th September 2024. Reference in this regard is made to document at Exhibit 'C', which is the injury certificate of the applicant. It is submitted that since the applicant had suffered such injuries, the FIR at his behest, could be registered on 11th September 2024. It is submitted that in this backdrop, since the applicant is ready to cooperate with the investigation, this Court may grant relief.

5. On the other hand, the learned APP submits that there are specific allegations against the applicant, which also attribute a

specific overt act on his part, which caused injuries to the victim and in such circumstances, no indulgence may be shown to the applicant.

6. This Court has perused the material on record in the light of the rival submissions. A bare perusal of the statement of the informant, leading to registration of the FIR, shows that the informant himself has referred to two incidents, one of which took place at on 6th September 2024 and other which took place at about 1:30 a.m. on 7th September 2024, resulting in injuries to the informant. The role of the applicant is described in the incident that occurred on 7th September 2024 at about 1:30 a.m. It is alleged that initially the applicant, along with the co-accused person, assaulted the informant by way of fists and kicks and thereafter, assaulted him by using a solid object.

7. The injury certificate at Exhibit 'C' pertaining to the applicant, clearly records that the incident that resulted in injuries to the applicant, took place on 6th September 2024 at about 11:30 p.m. This Court is of the opinion that a *prima facie* case is made out by the applicant to indicate that the injuries were suffered on 6th September 2024. This appears to be the very incident referred to by the informant herein, which led to registration of the FIR against the applicant. A perusal of the injury certificate shows that the applicant suffered three grievous injuries. These include fractures to the two ribs of the applicant. The aforesaid document thus make out a strong *prima facie* case in favour of the applicant

to claim that having been injured in such a serious manner, his presence at the time of the incident on 7th September 2024 at 1:30 a.m., is rendered doubtful.

8. This being a case of cross FIRs, the allegations made by the informant herein have to be appreciated in that context. This Court is of the opinion that in view of the aforesaid material available on record and in the light of fact that the applicant undertakes to cooperate with the investigation, he has made out a case for granting relief of anticipatory bail.

9. 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.0238 of 2024 dated 9th September 2024 registered at Malegaon Chhavani 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 17th October 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer, till filing of the final report. 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.