

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

ANTICIPATORY BAIL APPLICATION NO. 2886 OF 2024

Baban Aappaso Walunekar	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Prashant S. Hagare a/w Mr. Krishna Tarde for the Applicant.
Mr. Bapu V. Holambe-Patil APP for Respondent-State.
Mr. Machindra Bhagat, PSI, Daund Police Station, Dist. Pune.

**CORAM: MANISH PITALE, J.
DATE : 24th OCTOBER 2024**

P.C. :

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

2. The applicant is apprehending arrest in connection with FIR No. 0536 of 2024 dated 21st July 2024 registered at Daund Police Station, Dist. Pune, for offences under Sections 109, 118(1), 352, 351(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. The FIR has been registered on the statement of the informant, who himself and his father, both suffered injuries. The allegation against the applicant is that he along with 2 unknown persons, assaulted the father of the informant by means of wooden stick on his leg and his head, thereby causing injuries. The co-accused person was alleged to have used *koyta* to assault the victims.

4. The learned counsel for the applicant submits that the present case concerns cross FIRs, as an FIR was registered subsequently, before the very same Police Station, in respect of the incident in question, wherein the informant is co-accused person. It is submitted in the said FIR, even the presence of the applicant is not mentioned and the said co-accused person suffered fracture on his leg, during the course of the incident. In this situation, it was submitted that this Court may consider granting relief.

5. On the other hand, the learned APP submits that there are injury certificates on record issued by the Government as well as the Private Hospital, showing injuries to the victim corresponding to the nature of allegations made in the statement leading to registration of the FIR. It is submitted that the applicant is specifically named and an overt act is attributed to him, along with use of weapon in the form of wooden stick. In such a situation, it was submitted that relief may not be granted.

6. This Court has considered the documents filed with the application, as also the injury certificates brought to the notice of this Court by the learned APP.

7. The documents on record indeed show that there is a cross FIR filed in the present case, although it was registered subsequently. At this stage, not much importance can be given to the fact that in the subsequent FIR, the presence of the applicant is not mentioned. Since the informant is a co-accused and the FIR

has been registered subsequently, merely because the name of the applicant is not mentioned, cannot come to his aid. But, the injury certificates brought to the notice of this Court, show that insofar as the father of the informant is concerned, in the document issued by the Government hospital as well as the certificate issued by the private hospital, the site of the injury is shown as scalp (parietal and occipital regions) with the type of the injury being stated as CLW (simple injury) and the cause of the injury in both the injury certificates is recorded as assault by means of sharp weapon (*koyta*). There is no reference to any injury caused by way of wooden stick and there is also no mention of any injury to the leg of the father of the informant. The aforesaid document *prima facie* contradicts the role attributed to the applicant in the statement of the informant, leading to registration of the FIR. A *prima facie* case is made out by the applicant in his favour and hence, the application 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. 0536 of 2024 dated 21st July 2024 registered at Daund Police Station, Dist. Pune, 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 28th 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 Investigating Officer during the course of 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.

9. 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.

10. The application is disposed of.

MANISH PITALE, J.