

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

Anticipatory Bail Application No.2920 of 2024

Shubham Shantaram Patil
Indian Inhabitant, Adult,
Aged about : 27 years,
Occ: Driver, R/at: Pandurang
Kene Chawl No.1, Room No.7.
Behind Mahesh Apartment,
Khadegolvali Gaon,
Kalyan (East)- 421306,
Dist. Thane.

... Applicant

Versus

The State of Maharashtra
(at the instance of Kolsewadi Police
Station, Kalyan, Dist.Thane)

... Respondent

Mr Ganesh Bhujbal i/by Baburav Shinde, for the applicant.
Mr Amit Palkar, APP, for the respondent/ State.
API Subhash Pansare, Kolsewadi Police Station, Thane, is
present.

Coram: R.N. Laddha, J.
Date: 24 October 2024.

P.C.:

Mr Ganesh Bhujbal, the learned Counsel appearing on
behalf of the applicant and Mr Amit Palkar, the learned
Additional Public Prosecutor representing the respondent/
State.

2. By this application, the applicant seeks pre-arrest bail in connection with CR No.964 of 2024, registered at Kolsewadi Police Station, Kalyan, Thane for offences punishable under Sections 118(2), 125, 352 read with 3(5) of the Bhartiya Nyaya Sanhita (BNS), 2023.

3. It is the case of prosecution that on the night of 26 September 2024, at approximately 11:15 p.m., in the locality of Mahesh Colony, Khadegulvali, Kalyan, the applicant along with co-accused, attacked the informant. The assault was carried out using a sharp edged weapons, including a knife as well as stones. In the incident, the informant sustained grievous injuries.

4. Mr Ganesh Bhujbal, the learned Counsel appearing on behalf of the applicant, submits that the applicant has been falsely implicated in this case. Although it is alleged that the offence occurred on 26 September 2024 at 11:15 p.m. at Mahesh Colony, the FIR was lodged at approximately 2:31 p.m. on 27 September 2024, within a span of 10 minutes. It is highly improbable that the police could conclude and register the offence under Section 118(2) of Bhartiya Nyaya Sanhita, 2023 (BNS) with such a short time frame. The FIR does not specify which part of the informant's body sustained grievous

injury or which sharp edged weapon was used in the assault. According to the FIR, the informant received preliminary treatment at Rukmibai Hospital before coming to the police station to lodge the complaint. The alleged injuries do not fall under the ambit of Section 116 of the BNS, and the application of Section 118(2) of BNS is incorrect in this case. The applicant is a car driver, earning his livelihood through lawful means, and resides with his family. The applicant is the sole bread earner for his family, has no criminal antecedents, and is ready and willing to cooperate with the investigation.

5. On the other hand, Mr Amit Palkar, the learned Additional Public Prosecutor representing the respondent/ State, submits that the investigation is in progress and the weapon used by the applicant in the crime has not yet been recovered. The eyewitnesses have clearly implicated the applicant in the commission of the crime, assigning him a specific role. According to the learned APP, the intention to commit the offence is evident from the material placed on record.

6. This Court has appreciated the rival contentions and perused the material placed on record.

7. The allegations against the applicant are that, he along with the co-accused attacked the first informant using a sharp edged weapon, stones and knife. It appears from the record that the weapons involved in this crime have yet to be recovered. The eyewitnesses have clearly implicated the applicant in the commission of the crime, assigning him a specific role. The injuries sustained by the informant are grievous in nature. The investigation is still at a nascent stage. Considering the nature of the incident and the fact that the investigation is still in progress, the learned APP is justified in contending that this is not a fit case for grant of anticipatory bail. The custodial interrogation of applicant would be necessary to facilitate further investigation. As a result, the application stands rejected.

[R.N. Laddha, J.]