

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2966 OF 2024

Dhananjay Somnath Abhonkar ... Applicant
Vs.
State of Maharashtra ... Respondent

Ms. Iraa Dube Patil i/b. Jay & Co. for Applicant.

Ms. Megha S. Bajoria, APP for Respondent-State.

Mr. Yogesh Patil, API, Chhavani Police Station.

CORAM : MANISH PITALE, J.
DATE : NOVEMBER 14, 2024

P.C. :

. Heard Ms. Dube Patil, learned counsel for the applicant and Ms.Bajoria, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0238 of 2024 dated 09.09.2024 registered with Malegaon Chhavani Police Station, District - Nashik Rural, for offences under Sections 109, 115, 351(2), 352 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. The informant, in the present case, has described the incident that occurred on 06.09.2024 and 07.09.2024, which led to registration of the FIR. On the face of it, even the presence of the applicant is not mentioned in the incident dated 06.09.2024. But, certain overt acts are attributed to the applicant in respect of the incident dated 07.09.2024.

4. At the outset, the learned counsel for the applicant relies upon order dated 15.10.2024 passed by this Court in an application for anticipatory bail bearing No.2778 of 2024 filed by co-accused - Sandeep Abhonkar. Relief is sought on the ground of parity.

5. The learned APP submits that the documents on record show that as per injury certificate, the informant indeed suffered injuries as a consequence of the incident in question.

6. This Court has perused the documents on record. The learned counsel for the applicant is justified in raising the principle of parity as the co-accused - Sandeep Abhonkar has been granted relief by this Court, while the over act attributed to him appears to be similar to that, which is attributed to the applicant in the present application.

7. While granting relief to the co-accused in the order dated 15.10.2024 passed in Anticipatory Bail Application No.2778 of 2024, this Court recorded the following reasons:-

“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.”

8. This Court is convinced that the aforesaid reasons inure to the benefit of the present applicant also.

9. Hence, 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 09.09.2024 registered with Malegaon Chhavani Police Station, District - Nashik 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 18.11.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer, till filing of the report. He shall co-operate with the 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.)