

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

Anticipatory Bail Application No. 3044 of 2024

Javed Alam Taufique Alam Baig @ Bisi
Aged about 56 years, Occ. Business,
R/at. Flat No.10, 10th Floor,
Elegant Tower, Kamatipura Lane,
Mumbai - 400 008.

... Applicant

versus

The State of Maharashtra
(At the instance of Nagpada Police
Station in CR No.908 of 2024)

... Respondent

Mr Rajendra Rathod a/w Mr Sohail Ahmed, for the applicant.
Mr Amit A Palkar, APP, for the respondent/ State.
PI Baravkar YV, Nagpada Police Station, Mumbai, is present.

Coram: R.N. Laddha, J.
Date: 12 November 2024

P.C.:

Heard Mr Rajendra Rathod, the learned Counsel
appearing for 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.908 of 2024, registered at Nagpada
Police Station, Mumbai, for offences punishable under Sections

103(1), 109, 351(3) and 352 of the Bharatiya Nyaya Sanhita, 2023.

3. The prosecution alleges that on 8 October 2024, at around 9:00 a.m., the co-accused, on the instigation of the applicant, assaulted the injured on the suspicion that he stole his mobile phone. Subsequently, on being admitted in the hospital the injured succumbed to the injuries.

4. Mr Rajendra Rathod, the learned Counsel appearing on behalf of the applicant, submits that the incident took place on 8 October 2024, and the applicant was implicated for the first time on 18 October 2024. The applicant was not named in the FIR, and the CCTV footage confirms that he was not present at the scene of the incident. The incident occurred at the spur of moment, during which the co-accused assaulted the deceased. The co-accused later surrendered to the police and was arrested. The learned Counsel submits that the only allegation against the applicant is that, during the assault, the co-accused allegedly stated that his maternal uncle (the applicant) had remarked that the deceased was in a habit of pretending. There is no material, either direct or indirect, indicating the applicant's involvement in the crime. According to the learned Counsel, the applicant has been falsely implicated solely due to

his familial relationship with the co-accused.

5. Mr Amit Palkar, the learned Additional Public Prosecutor representing the respondent/ State, fairly concedes that the investigation in the matter has concluded and there is nothing to be recovered from the applicant. The learned APP asserts that the co-accused assaulted the informant following the instigation by the applicant.

6. This Court has given anxious consideration to the rival submissions canvassed across the Bar. It is the case of the prosecution that the applicant, through his statements or actions, incited or instigated the co-accused to commit the alleged assault. From the material on record, it appears that the applicant was neither present at the scene of the incident nor involved in the alleged assault. The applicant was not named in the FIR, and the co-accused, who committed the assault has already been arrested. The sole allegation against the applicant is that, during the assault, the co-accused reportedly stated that the applicant, who happened to be his maternal uncle, told him that the deceased was in the habit of creating nuisance. Apart from this statement, *prima facie* there is nothing on record to remotely connect the applicant's involvement in the crime. Notably, while the incident occurred on 8 October 2024, the

applicant was not implicated until 18 October 2024. Furthermore, the investigation is almost over and there is nothing to be recovered from the applicant.

7. In light of the above, this Court is inclined to grant pre-arrest bail to the applicant. Hence, the following order:

ORDER

(i) In the event of the applicant's arrest in connection with CR No.908 of 2024, registered at Nagpada Police Station, Mumbai, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall attend the concerned Police Station as and when required.

(iii) The applicant, himself or through any other person, shall not tamper with the evidence or influence the witnesses.

8. The application stands disposed of accordingly.

[R.N. Laddha, J.]