

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

Anticipatory Bail Application No. 3112 of 2024

Dilip Natha Gaikar

Age 58 years, Occ. Agriculture,

R/at. Dapivali, PO. Aranzad,

Tal. Ambernath, Dist. Thane.

...Applicant

Vs.

The State of Maharashtra

(Through Kulgaon Police Station)

...Respondent

Mr Ameya Pitale, for the applicant.

Mr Yogesh Dabke, APP, for respondent – State.

Mr Vikas Shivarkar i/b Mr Devidas Botkondle, for the intervenor.

PSI V A Kamdi, Kulgaon Police Station, Thane, is present.

Coram: R.N. Laddha, J.

Date: 6 December 2024

P.C.:

This is an application for pre-arrest bail filed by the applicant, apprehending arrest in CR No. I-130 of 2024, registered with Kulgaon Police Station, Thane, for the offences punishable under Sections 109(1), 137(2), 115(2), 352, 351(2), 351(3), 189(2), 191(2), 191(3) and 190 of the Bharatiya Nyaya Sanhita, 2023.

2. It is the case of the prosecution that on 6 October 2024 at about 5:30 p.m., the applicant, along with the co-accused, formed an unlawful assembly and assaulted the four individuals by an iron rod.

3. The applicant applied for anticipatory bail before the Sessions Court, which was rejected by an order dated 6 November 2024. The Sessions Court determined that the ongoing investigation required the applicant's custody.

4. Mr Ameya Pitale, the learned Counsel appearing on behalf of the applicant, submits that cross FIRs were registered in connection with the incident. He contends that the present FIR filed by the informant against the applicant was in retaliation to the applicant's FIR. The learned Counsel points out that during the incident the applicant was also assaulted. He also draws the attention of this Court to the allegations made in the FIR, which claim that the applicant assaulted the informant with a fist and kick blows, and as such nothing is to be recovered from the applicant. Furthermore, some of the co-accused have already been released on bail.

5. On the other hand, Mr Yogesh Dabke, the learned Additional Public Prosecutor representing the respondent/

State, and Mr Vikas Shivarkar, appearing on behalf of intervenor/ informant, jointly submit that the offence is grave and serious in nature. The learned APP further submits that four individuals were assaulted in the incident with an iron rod, causing grievous injuries to them. The statements of the injured and eyewitnesses confirm the applicant's active participation in the crime. Furthermore, the investigation is in progress, and the weapon used in the crime is yet to be recovered, necessitating the applicant's custody.

6. This Court has given anxious consideration to the rival submissions canvassed across the Bar.

7. Upon perusing the records, it becomes evident that the informant was not an eyewitness to the incident, and therefore, is not expected to know the details about the role of the applicant. However, upon reviewing the statements of the eyewitnesses and injured individuals, it appears that a specific role has been attributed to the applicant in the present crime. The four individuals were assaulted in the incident by an iron rod resulting in grievous injuries, which is supported by the injury certificates. Additionally, the investigation is in progress, and the weapon allegedly used in the crime is yet to be recovered. In these circumstances, custodial interrogation of the

applicant would be necessary. Consequently, this Court is not inclined to exercise its discretion in favour of the applicant and the application stands rejected accordingly.

(R.N. Laddha, J.)