

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

Anticipatory Bail Application No. 3116 of 2024

Nasir Bashir Gujar

Age: 39 years, Occ: Driver

Residing at: Own House, Balyani Gaon,

Balyani Ambivali Road, Near Jama

Masjid, Balyani Ambivali East,

Kalyan, Thane – 421 102

... Applicant

Versus

The State of Maharashtra

Through Senior PI,

Kalyan Taluka Police Station,

Sangoda Road, Titwala, Kalyan,

Maharashtra 421 605.

... Respondent

With

Interim Application No.4805 of 2024

In

Anticipatory Bail Application No. 3116 of 2024

Aasif Usman Rehmania

Age- 26 years, Occupation: Business,

Residing at Own House,

Baneli, Ambedkar Chowk,

Gupta Chawl, Ambivali,

Kalyan (W), Dist- Thane

... Intervenor

In the matter between:

Nasir Bashir Gujar

Age: 26 years,

Residing at: Own House, Baneli,

Ambedkar Chowk, Gupta Chawl,

Ambivali, Kalyan (W), Dist.-Thane

... Applicant

Versus

The State of Maharashtra
(At the instance of Kalyan Taluka
Police Station in Cr.No.109 of 2024) ... Respondent

Mr Manindra Pandey, for the applicant.

Mr Piyush Chhabria, a/w Ms Rashmi Bhandarkar, for the
intervenor.

Mr Swapnil S Pednekar, APP, for the respondent/ State.

Coram: R.N. Laddha, J.

Date: 3 December 2024.

P.C.:

This is an application for pre-arrest bail filed by the applicant, apprehending his arrest in CR No.109 of 2024, registered at Kalyan Taluka Police Station, Thane Rural, for the offences punishable under Sections 307, 323, 506 read with 34 of the Indian Penal Code.

2. The applicant stands accused of engaging in a violent altercation with the informant, who owns a rival chicken shop in the same locality of village Baneli, allegedly stemming from a business dispute. On 20 February 2024, the applicant, in collusion with the co-accused, reportedly attacked the informant at his shop. The assault involves punches, kicks and knife wounds inflicted on the informant's stomach and neck.

3. Mr Manindra Pandey, the learned Counsel for the applicant, submits that the applicant has been falsely implicated in the present case. The applicant neither used any weapon nor had any intention to cause harm to the informant, and the alleged incident was not pre-meditated. The essential elements required to invoke Section 307 IPC are absent in this case. Furthermore, the alleged injuries sustained by the informant are simple. Out of the four accused, two have already been granted anticipatory bail, and one has been released on regular bail. Additionally, the witnesses to the incident are claimed to be biased or interested.

4. On the other hand, Mr Swapnil Pednekar, the learned Additional Public Prosecutor, representing the respondent/State, submits that the applicant assaulted the informant with a knife, targeting his stomach and neck. The applicant is primary assailant who used a deadly weapon during the incident. The weapon used in the attack is yet to be recovered, and the investigation into the applicant's role remains ongoing. The learned APP further argues that the role attributed to the co-accused is entirely different as there are no allegations of weapon use against them. On the contrary, a specific and serious role has been attributed to the applicant, as he is accused of targeting vital parts of the informant's body.

5. It is well-established in law that the decision to grant anticipatory bail demands the Court's careful and judicious discretion, considering the facts and circumstances of each case. While exercising this power, the Court must act with caution, mindful that granting such protection in serious cases could lead to a miscarriage of justice or obstruct the progress of the investigation.

6. I have given anxious consideration to the rival submissions canvassed across the Bar and perused the material available on record. It appears that the investigation is still ongoing. The weapon allegedly used by the applicant in the commission of the crime has not yet been recovered. The applicant is named in the FIR, and specific allegations have been made that the applicant assaulted the informant with a knife. There are eyewitnesses to the incident, and their statements clearly implicate the applicant as the assailant. *Prima facie*, the material on record disclose reasonable grounds to believe the applicant's involvement in the crime. Considering the nature of the allegations, and the fact that the weapon allegedly used in the crime has not been recovered, the learned APP is justified in contending that this is not a fit case for grant of anticipatory bail. The custodial interrogation of the applicant would be necessary. As a result, the application stands rejected. As a

sequel, the pending application also stands disposed of.

[R.N. Laddha, J.]