

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

Anticipatory Bail Application No. 3143 of 2024

Arvind Singh

Aged 49 years, Occ. Advocate,
R/at. Room No.702/B, Khodiyar
Enclave Building No.02,
Ramdev Park, Mira Road (East),
Thane – 401 107.

... Applicant

Versus

The State of Maharashtra
(At the instance of Navghar
Police Station)

... Respondent

Mr Vilas B Tapkir i/b Mr Jyotiram S Yadav, for the applicant.
Mr MG Patil, APP, for the respondent/ State.
API TD Sakunde, Navghar Police Station.

**Coram: R.N. Laddha, J.
Date: 21 November 2024**

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.551 of 2024, registered at Navghar Police Station, Mira Bhayander, Vasai-Virar, for offences punishable under Sections 109 and 115 of the Bhartiya Nyaya Sanhita, 2023.

2. The prosecution alleges that on 10 November 2024, at about 8:00 p.m., the applicant/accused confronted the victim while she was alone. During this encounter, the accused verbally abused and physically assaulted the victim, eventually attempting to strangle her with a rope. As a result of the attack, the victim loss consciousness at the scene. She was later taken to the hospital, where she regained consciousness while receiving medical treatment.

3. Mr Vilas Tapkir, the learned Counsel appearing on behalf of the applicant, submits that the applicant is a practising Advocate and serves as the legal Advisor for society in question. Moreover, the applicant's wife has acted as a whistleblower by raising concerns and filing various complaints against the informant, particularly regarding the alleged misappropriation of the society's common funds. The learned Counsel submits that the CCTV footage from the lift shows the victim descending to the ground floor at the time relevant to the incident, casting doubt on the allegations made against the applicant. Based on this, the learned Counsel contends that the applicant has been falsely implicated in the present crime.

4. On the other hand, Mr MG Patil, the learned Additional Public Prosecutor representing the respondent/State,

emphasising the severity of the offence submits that following the incident of attempted strangulation, the victim was rendered unconscious. The learned Counsel submits that there is sufficient material available on record to implicate the applicant in the present crime. The CCTV footage shows the presence of the applicant and the victim at the scene of occurrence. The applicant was unconscious for more than three and half hours due to the applicant's assault and was admitted to the hospital for a considerable period.

5. Upon perusing the records, it is evident that the applicant is named in the FIR. Following the alleged attack, the applicant was found unconscious with a rope wrapped around her neck and was subsequently taken to the hospital. The applicant remained hospitalised from 12 October 2024 to 18 October 2024. The applicant's defence, which claims that he has been falsely implicated in this crime due to complaints lodged by his wife against the victim, cannot be accepted at this stage of pre-arrest bail proceedings. Such defences should be presented and evaluated during the trial. Moreover, the argument that the applicant's custody is not required for evidence recovery does not provide sufficient grounds for granting anticipatory bail. There is *prima facie* material available on record indicating the applicant's involvement in the crime. The applicant's custodial

interrogation is deemed necessary to facilitate a thorough and effective investigation.

6. It is a settled position in law that the power to grant anticipatory bail is extraordinary. While it has been acknowledged in many instances that regular bail is considered a general rule, the same analogy cannot be applied to anticipatory bail. The decision to grant anticipatory bail must be exercised with careful and prudent discretion by the Court, considering each case's specific circumstances. A straitjacket formula cannot be applied. While exercising this power, the Court must exercise caution, as granting protection in serious cases could potentially lead to a miscarriage of justice or hinder the investigation by allowing tampering or destruction of evidence. A profitable reference in this regard can be made to the decision of the Hon'ble Supreme Court in *Srikant Upadhyay & Ors. v. State of Bihar & Anr.*¹

7. In the totality of circumstances, I am not inclined to exercise discretion in favour of the applicant. Hence, the following order.

Order

The application stands rejected.

[R.N. Laddha, J.]

¹ 2024 SCC OnLine SC 282.