

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3156 OF 2024**

Sameer Tabaraque Choudhary and another ... Applicants

vs.

The State of Maharashtra ... Respondent

Mr. Anuj Tiwari for applicants.

Mr. Balraj B. Kulkarni, APP for respondent-State.

Mr. Yogesh S. Mali, PSI, Bhadrakali Police Station, District Nashik

CORAM : MANISH PITALE, J.

DATE : 29th NOVEMBER, 2024

P.C. :

. Heard learned counsel for the applicants and the learned APP for the respondent-State.

2. The applicants are apprehending arrest in connection with FIR No.I-329 of 2024 dated 22.09.2024, registered at Bhadrakali Police Station, District Nashik, for offences under Sections 118(1), 115(2), 352, 351(2), 351(3), 324(4), 324(5) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS). Subsequently, offence under Section 118(2) of the BNS was also added, considering the nature of injuries suffered by the victim.

3. The FIR was registered on the statement of the informant (victim), who stated that on the date and time of the incident, the applicants approached him and assaulted him by means of iron rods on his right hand, ribs and leg, resulting in serious injuries.

4. The learned counsel for the applicants submits that in the present case, there is a backdrop of animosity between the parties,

for the reason that on 04.03.2023, the applicant No.1 had caused an FIR to be registered against the informant herein and others, with respect to offences under Sections 324, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 (IPC). It was further submitted that on the date of the alleged incident i.e. on 17.09.2024 itself, report of non-cognizable offence (NCR) was registered at the behest of applicant No.1 against the informant herein and others, with regard to the incident that took place, wherein the informant and his associates had threatened applicant No.1 to withdraw the aforementioned earlier FIR registered against them. It is submitted that a subsequent FIR bearing No.277 of 2024 was also registered against the applicant No.1 for offences under the BNS as well as provisions of the Protection of Children from Sexual Offences Act, 2012, at the behest of the sister of the informant, wherein the applicant was granted anticipatory bail by the Sessions Court itself.

5. It is submitted that in this backdrop, it can be said that exaggerated allegations have been made against the applicants. In any case, offence under Section 118(2) of the BNS was added after about 8-10 days of registration of offences and the FIR itself can be said to be belated. It was submitted that the applicants are ready to co-operate with the investigation and therefore, the application may be allowed.

6. On the other hand, the learned APP relies upon the investigation papers. He submitted that merely because there was background of animosity, the brutal assault that the applicants launched on the first informant (victim) by way of iron rods, cannot be justified. It is submitted that the weapons of assault are yet to be recovered. The injury certificate shows grievous injuries suffered by

the first informant, thereby showing the seriousness of the offences and invocation of Section 118(2) of the BNS. Reference is made to an NCR registered at the behest of an individual, who was a witness to the incident in question, claiming that applicant No.1 had threatened him on 19.10.2024. It is submitted that in this situation, no indulgence can be shown to the applicants. It is also brought to the notice of this Court that applicant No.2 has 3 criminal antecedents, including an FIR registered against him under Section 302 of the IPC.

7. This Court has considered the rival submissions, upon perusing the documents placed on record as also, upon perusing the investigation papers. There can be no doubt about the fact that there appears to be animosity between the parties. Copy of the earlier FIR dated 04.03.2024 registered against the informant at the behest of applicant No.1, is placed on record. This Court has also perused the NCR dated 17.09.2024, registered at the behest of applicant No.1 against the informant herein. It is also a matter of fact that the applicant was granted anticipatory bail in the context of the FIR registered on 17.09.2024, wherein allegations were made by the sister of the applicant.

8. Even if there is sufficient material to show that there is indeed animosity between the parties, the tenor of statement of the informant, leading to registration of FIR, read with the injury certificate on record, does not indicate that this could be a case of exaggerated allegations or false implication. Considering the aforesaid material, a *prima facie* case is made out against the applicants of having assaulted the first informant by way of weapons, which resulted in grievous injuries to the first informant, including

fracture to his ribs. In such circumstances, section 118(2) of the BNS being invoked, cannot be said to be misplaced. This Court is also not impressed with the contention raised on behalf of the applicants that since punishment under the said provision provides for imprisonment between the range of 1 to 10 years, this Court may consider granting anticipatory bail.

9. The injuries in the present case indeed correspond to the specific allegations made by the informant and therefore, *prima facie* case is made out against the applicants. The weapons are yet to be recovered. It is also found that since the informant was injured in the aforesaid manner, registration of FIR on 22.09.2024, at this stage, cannot be held against the informant.

10. Applicant No.2 has serious criminal antecedents, while applicant No.1 also has criminal antecedents, although they appear to be in the backdrop of the animosity between the parties. No case is made out for granting anticipatory bail.

11. The application is dismissed.

12. Needless to say, the observations made in his order are limited to deciding the prayer for anticipatory bail.

(MANISH PITALE, J)