

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3172 OF 2024

Sandip Baburao Aakhade ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Sanjeev P. Kadam a/w. Mr. Prashant P. Raut i/b. Ms. Varsha M. Thorat for Applicant.

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

CORAM : MANISH PITALE, J.
DATE : NOVEMBER 28, 2024

P.C. :

. Heard Mr. Kadam, learned counsel for the applicant and Mr.Kulkarni, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0134 of 2024 dated 07.09.2024 registered with Mahabaleshwar Police Station, District - Satara, for offences under Sections 3, 5, 115(2), 351(2), 351(3) and 352 of Bharatiya Nyaya Sanhita, 2023 (BNS), as also under Sections 39 and 45 of the Maharashtra Money Lending (Regulation) Act, 2014.

3. The allegation made by the informant is that, the co-accused persons were demanding exorbitant interest for certain amount advanced to the informant by way of loan and in that context, the accused persons, including the applicant threatened, abused and beat up the informant for recovery of such exorbitant amount.

4. The learned counsel for the applicant submits that although anticipatory bail applications of two co-accused persons were dismissed

by this Court by order dated 19.11.2024 passed in Anticipatory Bail Application Nos.3077 of 2024 and 3078 of 2024, the role of the present applicant is clearly distinguishable and therefore, this Court may consider the application favourably. It is pointed out that the first informant has not even alleged that any payments were made into the account of the applicant and that the only allegation against him is that, he accompanied the co-accused persons on a particular date, when they were seeking recovery of amounts from the informant and in that process, he abused and beat up the informant by way of kicks. It is submitted that the applicant is ready to co-operate with the investigation and therefore, this Court may allow the application.

5. On the other hand, the learned APP has opposed the present application, relying upon the stand taken on behalf of the respondent-State before the Sessions Court, when the application for anticipatory bail of the applicant was dismissed. It was submitted that the applicant had not co-operated with the investigating officer, despite the interim relief operating in his favour before the Sessions Court. It was also stated before the Sessions Court that the applicant had used a gun to threaten the informant.

6. The investigation papers are not available for perusal of this Court and the investigating officer could also not remain present, therefore, this Court is unable to understand as to on what basis, allegation of use of gun by the applicant has been levelled against him. A perusal of the statement of the informant that led to registration of the FIR does not indicate any such allegation against the applicant. This Court also finds that while specific allegations were made against the co-accused persons with regard to transfer of specific amounts into their accounts through mobile applications, no such allegation of any amount being transferred to the applicant has been made. The only allegation against him appears

to be that, on 30.08.2024, the applicant accompanied the co-accused persons, who visited the applicant for recovery of amounts and in that process, he abused and beat up the informant. *Prima facie*, ingredients of serious offence under Section 39 of the Maharashtra Money-Lending (Regulation) Act, 2014 do not appear to be made out against the applicant. But, since the learned APP is insisting that papers ought to be perused by this Court before finally disposing of the application, this Court, while keeping the application pending, is inclined to grant interim relief in favour of the applicant.

7. In view of the above, the investigating officer is directed to remain present with the investigation papers before this Court on the next date of listing. In the meanwhile, there shall be interim order in the following terms:-

- A. Till the next date, in the event the applicant is arrested in connection with FIR No.0134 of 2024 dated 07.09.2024 registered with Mahabaleshwar Police Station, District - Satara, he shall be released on bail on furnishing PR Bond of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the trial Court;
- B. The applicant shall remain present before the investigating officer on 30.11.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called. He shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

8. In case any of the aforesaid conditions are violated, the present order would be liable to be cancelled.

9. List the application for further consideration on 06.01.2025, High on Board.

(MANISH PITALE, J.)

Minal Parab