

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

**ANTICIPATORY BAIL APPLICATION NO. 3181 OF 2024**

Dipesh Aniruddh Mumbaikar

...Applicant

**Versus**

The State of Maharashtra

...Respondent

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- Mr. M.V. Thorat a/w Mr. Amar Bodke i/b Mr. Madhav Kulkarni for Applicant.
- Mr. Kiran C. Shinde, APP for Respondent – State.

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MALANI

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**CORAM : MANISH PITALE, J.**

**DATE : 29<sup>th</sup> NOVEMBER, 2024.**

**P. C. :**

1. Heard, Mr. Thorat, learned counsel for the applicant and Mr. Shinde, learned APP for the respondent-State.

2. The applicant herein is apprehending arrest in connection with First Information Report No.0022 of 2024, dated 30<sup>th</sup> January, 2024, registered at Police Station Uran, Navi Mumbai, for offences under Sections 332, 335 and 504 of the Indian Penal Code, 1860 (IPC).

3. In the present case, the informant is a Police Constable. He has stated that on the date and time of the incident a number of villagers had surrounded two individuals on a suspicion that the said individuals were criminals. When the police reached the spot, the villagers, roughed up the policemen also, leading to registration of the FIR.

4. It is brought to the notice of this Court that this is the second anticipatory bail application filed before this Court on behalf of the applicant. It is submitted that earlier anticipatory bail application was dismissed by this Court by order dated 05<sup>th</sup> March, 2024, passed in Anticipatory Bail Application No.611 of 2024. It is submitted that the said order was passed when charge-sheet was yet to be filed in the matter.

5. It is submitted that now the charge-sheet has been filed and statements of witnesses have been placed on record. According to the applicant, specific role is not attributed to him and since he is ready to cooperate with the investigation, this Court may favourably consider the present application, particularly for the reason that anticipatory bail is granted by the Sessions Court to a similarly situated co-accused person. It is submitted that the Sessions Court refused to consider the contention raised on behalf of the applicant on the ground that dismissal of his earlier anticipatory bail application by the High Court was not stated in the application before the Sessions Court.

6. On the other hand, the learned APP submits that the statements of Police persons recorded during the course of investigation show that presence and role of the applicant is established and therefore, no ground is made out for entertaining the present application, particularly in the light of

the earlier anticipatory bail application being dismissed.

7. There is no doubt about the fact that this is the second anticipatory bail application filed on behalf of the applicant. It is also noted that the Sessions Court did not even discuss the merits of the contentions raised on behalf of the applicant and dismissed the application only on the ground that the dismissal of the earlier anticipatory bail application was not stated. But, this court has heard the learned counsel for the applicant on merits, for the reason that it is specifically stated that even if the contents of the charge-sheet are to be taken into account, specific overt act on the part of the applicant cannot be demonstrated. It is highlighted that co-accused person, who was a co-applicant with the present applicant before the Sessions Court had an identical role and he has been granted anticipatory bail by the Sessions Court. It is submitted that the applicant, in fact, was making an effort to defuse the situation and therefore, the ingredients of the offence under Section 353 of the IPC cannot be said to be made out against the applicant.

8. The material on record is perused and it is to be noted that amongst the statements recorded during the course of investigation, the presence of the applicant is indeed mentioned, but while specific overt acts have been attributed to some of the co-accused persons, allegations against the applicant and some other co-accused persons have been made in a general and

*omnibus* manner. It is relevant to note that the co-accused person identically situated like the applicant, was granted anticipatory bail by the very order by which the prayer for anticipatory bail of the applicant was rejected.

9. This Court is of the opinion that the earlier anticipatory bail application of the applicant was decided when entire material through investigation was yet to come on record. Now the material is available and a perusal of the same gives an impression that the presence of the applicant *prima facie* can be said to be established, but in the absence of an specific overt act attributed to the applicant, he can be granted relief, as he has undertaken to cooperate with the investigation. There is not even an allegation of use of any weapon or otherwise, which would justify custody for recovery etc. and therefore, this Court is inclined to allow the application. It is also noted that the applicant does not have any criminals antecedents.

10. In view of the above, the application is allowed in the following terms:

- (A) In the event the applicant is arrested in connection with FIR No.0022 of 2024, dated 30<sup>th</sup> January, 2024, registered at Police Station Uran, Navi Mumbai, he shall be released on bail, on furnishing PR Bond of ₹ 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 02<sup>nd</sup> December, 2024, between 10:00 a.m. and 12:00 noon and thereafter as and when called by the Investigating Officer.
- (C) The applicant shall cooperate with the investigation.
- (D) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

11. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail.

12. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the Trial Court shall proceed further, without being influenced by the observations made in this order.

13. The application is disposed of.

(MANISH PITALE, J.)