

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

ANTICIPATORY BAIL APPLICATION NO. 3289 OF 2024

Sambhaji @ Banda Madhavrao Salunkhe	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Sanjeev Gorwadkar, Senior Advocate, i/by Aditya Raktade a/w Anup Kamble, Sumit Vhanbatte, Dnyanesh Patil and Aarti Shah for the Applicant.

Mr. Tanveer G. Khan, APP for Respondent-State.

Mr. Abhijeet B. Patil, API, Shahuwadi Police Station, Kolhapur.

**CORAM: MANISH PITALE, J.
DATE : 9th DECEMBER 2024**

P.C. :

. Heard learned Senior Counsel for the applicant and learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No. 0223 of 2024 dated 15th July 2024 registered at Shahuwadi Police Station, Dist. Kolhapur, for offences under Sections 223, 132, 324(4), 324(5), 189(2), 190, 191(2), 191(3), 121(1), 121(2), 127(1) and 295 of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Sections 37(1) and 135 of the Maharashtra Police Act, 1951.

3. The FIR has been registered in the context of serious incidents that took place at Fort Vishalgad, where a mob of individuals had gathered, leading to some untoward incidents.

There are other FIRs also registered and significantly, in FIR No.0222 of 2024 registered on the very same day before the said Police station, the Sessions Court granted anticipatory bail to the applicant.

4. The learned Senior Counsel for the applicant relied upon the said order and he further submitted that the distinction made by the Sessions Court while rejecting the anticipatory bail application concerning the subject FIR is not sustainable, looking to the allegations made in the FIR itself. It is submitted that since the applicant is social activist and local resident, he was present at the time of the incident, according to him, only to assist the Police. It is further submitted that he is ready to cooperate with the investigation and he cannot be said to be a flight risk.

5. On the other hand, the learned APP relied upon the distinction made by the Sessions Court in the order dated 8th November 2024, rejecting the anticipatory bail application of the applicant, submitting that recovery of certain weapons is to be made from the applicant. It is submitted that the allegations in the subject FIR are serious, which include manhandling of Police persons on duty, showing the ingredients of the serious offence under Section 132 of the BNS.

6. This Court has considered the rival submissions. A perusal of the reason recorded by the Sessions Court, while granting anticipatory bail to the applicant in FIR No. 0222 of 2024, shows

that it was specifically recorded that other than the allegation of instigating the mob, there was no other specific allegation against the applicant and that there was no question of recovery of weapons.

7. In the subject FIR also it is noticed that the allegation against the applicant is that he along with the other named accused persons, led a mob of 600 to 700 persons at the aforesaid Fort, when some untoward incidents took place. But, the FIR itself records at a point in time and at a place in the Fort, the applicant himself made the mob aware about status-quo order of a Court concerning the question of encroachment. This would indicate that the applicant *prima facie* did take some effort to make the mob aware about the factual position and yet, the mob of 600 to 700 persons allegedly indulged in the acts of violence. There does not appear to be specific allegation with regard to use of weapon by the applicant, during the incident in question and therefore, considering the general and omnibus allegations made against the applicant, this Court is inclined to allow the present application.

8. 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. 0223 of 2024 dated 15th July 2024 registered at Shahuwadi Police Station, Dist. Kolhapur, he shall be released on bail on furnishing PR Bond of

Rs.15,000/- and 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 12th December 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer. The applicant shall cooperate with the investigation.

(c) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses or any other person concerned with the case.

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

10. The application is disposed of.

MANISH PITALE, J.