

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3300 OF 2024**

Yogesh Sahebrao Ukhade (Ukharde) ... Applicant
vs.
The State of Maharashtra ... Respondent

Ms. Iraa Dube Patil, i/b. Jay & Co. for applicant.

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

Mr. Santosh Jeevan Ghoderao, Police Hawaldar, Nashik Taluka Police Station, District Nashik Rural.

CORAM : MANISH PITALE, J.

DATE : 09th DECEMBER, 2024

P.C. :

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

2. The applicant is apprehending arrest in connection with FIR No.0167 of 2024 dated 12.08.2024, registered at Nashik Taluka Police Station, District Nashik Rural, for offences under Sections 352, 351(2), 3(5), 118(1) and 115(2) of the Bharatiya Nyaya Sanhita, 2023.

3. The informant in the present case has alleged that the applicant and the co-accused persons assaulted him and his mother, in the backdrop of a dispute pertaining to access road between the agricultural lands belonging to the rival parties.

4. At the outset, the learned counsel for the applicant submitted that both the co-accused persons have been granted anticipatory bail. Co-accused i.e. the father of the applicant was granted anticipatory bail by the Sessions Court by order dated 22.08.2024 and the co-accused i.e. the brother of the applicant was granted anticipatory bail by this Court by order dated 17.10.2024.

5. It was submitted that considering the reasons recorded by the Sessions Court and this Court in the said orders, the applicant in this application also deserves to be granted relief, as he undertakes to co-operate with the investigation.

6. The learned APP, on the other hand, submitted that in the present case, this Court took note of the contradictions in the FIR, when compared to the history given at the time when the injured was being treated. It is submitted that the history may have been given by some of the relatives and the contradictions may have crept in. It is submitted that specific allegation has been made against the applicant and therefore, the principle of parity will not apply.

7. This Court has considered the rival submissions. In the order dated 22.08.2024, while granting bail to the co-accused person i.e. the father of the applicant, the Sessions Court, in paragraph No.7, referred in detail to the background of civil litigation between the parties and as to the manner in which the dispute was sought to be resolved before the *Tanta Mukti Samiti*. It was also recorded that there appears to be a long-standing dispute between the parties, regarding right of way from the agricultural lands.

8. In the order dated 17.10.2024, this Court recorded the following reasons, while granting bail to the co-accused person i.e. the brother of the applicant:

“8. This Court has heard the rival contentions in the light of the material brought on record. This Court is inclined to allow the application for the following reasons :

(a) The statement of the informant, leading to registration of the FIR, attributes specific role to the applicant of having assaulted him by way of a spade. Yet, there is no injury certificate on record to show that the

informant indeed suffered any injury.

- (b) The only injury certificate on record of the investigation papers, pertains to the mother of the informant. Here again a contradiction is noticed, in as much as, the statement of the informant alleges that the brother of the applicant i.e. the co-accused person, assaulted the mother of the informant by means of knife on her right cheek. But, the injury certificate, while referring to an injury on the cheek of the mother of the informant, in the history records that she was assaulted by means of a spade. Prima facie, there is contradiction between the injury certificate and the statement of the informant, which led to registration of the FIR.
- (c) There is indeed a copy of an NCR on record, showing that the brother of the applicant had approached the Police with regard to the very same incident making allegations against the informant and his family members. This indicates that a scuffle may have been taken place in the light of the dispute regarding the access road.
- (d) There is a medical certificate, although issued by a private hospital, showing that the brother of the applicant had indeed suffered injury to his right hand on the very date of the incident. This further supports the contention raised on behalf of the applicant that there was a scuffle between the two groups, in the context of the dispute pertaining to the access road.
- (e) The applicant is ready to cooperate with the investigation.”

9. In this backdrop, when the statement of the informant, leading to registration of FIR, is perused in the context of the N.C. recorded at the behest of the applicant, the document showing that he himself had suffered injuries during the incident and the medical history given while admitting the mother of the informant in the hospital indicates that there are certain contradictions, which go to the root of the matter. The applicant is ready to co-operate with the investigation.

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

- (i) In the event the applicant is arrested in connection with FIR No.0167 of 2024 dated 12.08.2024, registered at Nashik Taluka Police Station, District Nashik Rural, 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.
- (ii) The applicant shall remain present before the Investigating Officer on 12.12.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer.
- (iii) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.
- (iv) The applicant shall co-operate with the investigation and also in the proceedings before the trial Court.

11. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

12. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

13. The application stands disposed of.

(MANISH PITALE, J)