

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3355 OF 2024**

Vijay Pundlik Mokashi ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Harsharaj Jagtap a/w. Mr. Harshavardhan Patil and Ms. Sneha Pawar
for applicant.

Mr. Prasanna P. Malshe, APP for respondent-State.

CORAM : MANISH PITALE, J.

DATE : 12th 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.0452 of 2024 dated 19.10.2024, registered at Wada Police
Station, District Palghar, for offences under Sections 118(1), 115(2),
352 and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. The allegation against the applicant is that on the date and
time of the incident, he assaulted the informant i.e. his uncle by
means of a *koyta*, which resulted in grievous injury.

4. The learned counsel for the applicant submits that this is a
matter concerning cross-FIRs because an FIR bearing No.0455 of
2024 dated 20.10.2024 was registered against the informant herein
and others at the behest of the applicant with regard to the very
same incident. It is submitted that the applicant was also seriously
injured in the incident and he had to take medical help due to which,
there was some delay in registration of FIR at his behest. It is further
submitted that there is a dispute between the applicant and his uncle

i.e. the informant, with regard to property and an earlier FIR was registered at the behest of the applicant against the informant and others on 09.02.2018 before the very same police station for offence under Section 328 of the Indian Penal Code, 1860 (IPC). The allegation levelled in the said case was that the informant and others had forcibly put poisonous substance into the mouth of the applicant. It is submitted that in this backdrop, since the applicant is ready to co-operate with the investigation, this Court may consider allowing the application.

5. On the other hand, the learned APP submits that the say dated 07.11.2024 submitted by the investigating officer shows that the informant in the present case suffered fracture on his finger due to the assault launched by the applicant and since the ingredients of the offences alleged against the applicant, are clearly made out, no indulgence may be shown. It is submitted that the applicant has at least one criminal antecedent involving offence under Section 323 of the IPC.

6. This Court has considered the rival submissions. The documents on record show that there are indeed cross-FIRs with regard to the incident in question. As per the FIR registered at the behest of the applicant, he was assaulted by means of stone and *koyta* by the informant and others. The document at Exhibit E shows that the applicant had to be taken to the rural hospital at Wada, District Palghar on 19.10.2024 i.e. on the date of the incident. The said document records the time as 02:00 p.m. It shows that the applicant suffered injuries due to assault by a known person, resulting in local swelling on scalp, amongst other injuries. He was sent for CT scan and in the process, there was some delay in getting the FIR registered.

7. A perusal of the said document shows that in the incident, the applicant was indeed injured and even if the allegations made by the informant are to be taken into consideration, it shows that there was a scuffle between the parties. It is relevant to note that although the informant has alleged that the applicant assaulted him by means of *koyta*, the nature of injury in the form of fracture of one of the fingers of the informant, would show that a blunt hard object was used. This *prima facie* shows that the sharp portion of *koyta* was not used in the assault.

8. It is also relevant to note that this is not the first occasion on which criminal case is registered, because as far back as on 09.02.2018, the applicant had caused an FIR to be registered at the very same police station against the informant and others on specific allegation that a poisonous substance was forced down his throat, leading to registration of FIR under Section 328 of the IPC. This is perhaps in the backdrop of the property dispute between the parties. Considering the fact that the documents on record *prima facie* show that a scuffle ensued between the parties, this Court is inclined to grant relief to the applicant, subject to stringent conditions, as the parties appear to be neighbours and hence, the possibility of further such incident cannot be ruled out.

9. As regards criminal antecedent, this Court finds that the offence registered therein was under Section 323 of the IPC. The applicant has undertaken 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.0452 of 2024 dated 19.10.2024, registered at Wada Police Station, District Palghar, 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 16.12.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer.
- (iii) The applicant shall stay outside the jurisdiction of Wada Police Station, District Palghar, till filing of charge-sheet, except for appearing before the investigating officer, in terms of condition (ii) above.
- (iv) 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.
- (v) 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)