

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3378 OF 2024

Amit Suresh Kadam ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Vivek N. Arote a/w. Mr. Akshay Dingale for Applicant.
Mr. Babu V. Holambe-Patil, APP for Respondent-State.
Mr. Shivaji D. Bunage, PSI, Nanded City Police Station, Pune City.

CORAM : MANISH PITALE, J.
DATE : DECEMBER 13, 2024

P.C. :

1. Heard Mr. Arote, learned counsel for the applicant and Mr. Holambe-Patil, learned APP for the respondent-State.

2. The applicant, in the present case, is apprehending arrest in connection with FIR No.0665 of 2024 dated 16.11.2024 registered with Sinhgad Road Police Station, District - Pune, for offences under Sections 109(1), 189(2), 190 and 191(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. The informant has alleged that on the date and time of the incident, the applicant and the other named accused persons were seen inside a red car. The informant and his associate were dashed by the said car, which resulted in injuries. It is the case of the informant that the dash given by the car was with an intention to commit the murder of the informant and his associate.

4. The learned counsel for the applicant submits that even if the statement of the informant is to be taken into account, invoking Section

109(1) of the BNS, pertaining to the offence of attempt to murder, can be said to be an exaggeration. It is submitted that the informant has not even alleged that the applicant was driving the car. It is further brought to the notice of this Court that the car was subsequently recovered from the arrested accused, who was not even named in the FIR. It is submitted that the applicant is ready to co-operate with the investigation.

5. On the other hand, the learned APP submits that the allegation made by the informant is clearly to the effect that the car was driven in such a manner that the informant and his associate were almost run over, obviously with an intention to commit their murder.

6. It is further brought to the notice of this Court that the applicant has three criminal antecedents. In this regard, the learned counsel for the applicant tendered a copy of the judgment and order dated 02.09.2021, showing that he was acquitted in one of the said cases, thereby stating that as on today, there are two other criminal cases pending against him.

7. This Court has considered the rival submissions. The description of the incident shows that even according to the informant, the car gave a dash to him and his associate due to which, they suffered injuries. The record shows that all the injuries were simple injuries. It is to be noted that, while the informant has alleged that the applicant was one of the occupants of the said car, there is no allegation against the applicant that he was driving the car. It is also relevant to note that the car was eventually recovered from a third accused person, who was not even named in the FIR.

8. All these factors indeed make out a *prima facie* case in favour of the applicant to claim that the ingredients of the serious offence under Section 109 of the BNS cannot be said to be made out. Merely because there are two more criminal cases pending against the applicant, cannot

be a ground to deprive him of a relief. A strong *prima facie* case is made out in favour of the applicant in this particular case and he has undertaken to co-operate with the investigation.

9. 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.0665 of 2024 dated 16.11.2024 registered with Sinhgad Road Police Station, District - Pune, he shall be released on bail on furnishing PR Bond of Rs.25,000/- with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer on 16.12.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer. 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.

10. 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 and that the trial Court shall proceed further, without being influenced by the observations made in this order.

11. The anticipatory bail application is disposed of.

(MANISH PITALE, J.)