

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

**INTERIM APPLICATION NO. 5301 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 3418 OF 2024**

Pratik @ Alex Deepak Gawale ... Applicant
Versus
The State of Maharashtra ... Respondent

Ms. Sana Raees Khan (through V.C.) a/w Aditya Parmar and Juhi Kady for the Applicant.

Mr. Sagar R. Agarkar, APP for Respondent-State.

Mr. Shekhar Mokate, PSI, Lashkar Police Station, Pune City.

**CORAM: MANISH PITALE, J.
DATE : 20th DECEMBER 2024**

P.C. :

. By this interim application, the applicant seeks restoration of anticipatory bail application, which was dismissed on 16th December 2024, as there was no appearance on behalf of the applicant.

2. For the reasons stated in the application, the same is allowed and the anticipatory bail application is restored.

3. The learned counsel for the applicant is heard in respect of the anticipatory bail application.

4. The applicant is apprehending arrest in connection with FIR No. 0134 of 2023 dated 19th June 2023 registered at Lashkar

Police Station, Dist. Pune, for offences under Sections 307, 143, 147, 148, 149 and 427 of the Indian Penal Code, 1860 (IPC), Sections 4 and 25 of the Arms Act, 1959, Sections 37(1) and 135 of the Maharashtra Police Act, 1959 and Sections 3 and 7 of the Criminal Law (Amendment) Act, 2023.

5. The informant in the present case has stated in his statement, leading to registration of the FIR, that on the date and time of the incident, the applicant and number of unknown persons assaulted him. The name of only the applicant is specifically stated in the FIR, while others have been recorded as unknown persons. The informant has specifically alleged that the applicant assaulted him by means of a *koyta* (sickle).

6. The learned counsel for the applicant submits that the investigation is now completed and charge-sheet has been filed. It is brought to the notice of this Court that few co-accused persons were granted anticipatory bail and the others were granted regular bail. It is submitted that the contents of the charge-sheet and the documents filed therewith, do not support the registration of serious offences in the present case and that therefore, this Court may consider granting anticipatory bail.

7. As regards, reference to proclamation issued against the applicant under Section 82 of the Code of Criminal Procedure, 1973 (Cr.P.C.), as recorded in the order of the Sessions Court dated 8th November 2024, whereby the application for

anticipatory bail of the applicant was dismissed by the Sessions Court, it is submitted that the said proclamation is in respect of another offence and therefore, the same may not be taken into consideration, while passing orders in the present application.

8. On the other hand, the learned APP vehemently opposed the present application. It is submitted that the applicant has remained absconding throughout and merely because the charge-sheet has now been filed and particularly as against the applicant under Section 299 of the Cr.P.C., the applicant cannot be permitted to take advantage of the situation. It is further submitted that the applicant has criminal antecedents and even after the said FIR, the applicant has committed further crime and this is evident from the contents of paragraph 11 of the order of the Sessions Court, which refers to FIR No.18 of 2024 in respect of an incident dated 29th February 2024.

9. It is submitted that proclamation under Section 82 of the Cr.P.C. is indeed issued and even if it pertains to another FIR, it cannot be said that the said aspect can be ignored, while considering the present application.

10. This Court has considered the rival submissions in the light of the material on record. The FIR in the present case was registered more than 1 year and 6 months ago i.e. on 19th June 2023. The applicant has remained absconding since then. It appears that the applicant has filed anticipatory bail application

before the Sessions Court recently and it was dismissed on 8th November 2024, with the Sessions Court specifically observing that after the subject FIR also, further FIR has been registered i.e. FIR No. 18 of 2024 for an incident of 29th February 2024. It is also recorded that proclamation under Section 82 of the Cr.P.C. has been issued against the applicant in respect of Sessions Case No. 1193 of 2016. These facts clearly indicate the criminal antecedents of the applicant. It is also clear that the applicant has remained absconding for 1 year and 6 months in the present case. In such a situation, merely because some co-accused persons have been granted anticipatory bail and others have been released on regular bail, as also the fact that the charge-sheet is filed, cannot be factors inuring to the benefit of such an absconding accused person.

11. In any case, this Court has considered the orders of anticipatory bail passed in favour of some of the co-accused persons. Their role is distinguishable from that of the applicant. In the present case, the informant has specifically alleged and taken the name of the applicant as being one of the main assailants, having used the weapon sickle. There is not much substance in the contention raised on behalf of the applicant that the injury certificates do not support the claim of the applicant. This Court is of the opinion that the injury certificates do show injuries on the head of the victim and such injuries correspond with the specific role attributed to the applicant in the present case. No indulgence

can be shown to such an accused person, who has remained absconding for all this while and now, he is knocking the doors of this Court seeking anticipatory bail, while in the meanwhile, the charge-sheet has been filed.

12. No case is made out for granting anticipatory bail. The application is dismissed.

MANISH PITALE, J.