

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3448 OF 2024

Kaustubh Manoj Ture ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. C. K. Pendse a/w. Ms. Siddhi Bhosale, Ms. Namrata Pangam and Mr. Atharva Jagtap for Applicant.

Mr. Babu V. Holambe-Patil, APP for Respondent-State.

Mr. R. Bagul, Head Constable, Khalapur Police Station, District - Raigad.

CORAM : MANISH PITALE, J.
DATE : DECEMBER 18, 2024

P.C. :

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

2. The applicant is apprehending arrest in connection with FIR No.0422 dated 16.10.2024 registered with Khalapur Police Station, District - Raigad, for offences under Sections 115(2), 118(2), 126(2), 189(1), 189(2), 189(4), 190, 191(2), 191(3), 351(2), 351(3) and 352 of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. The statement of the informant, leading to registration of the FIR, shows that on the date and time of the incident, the applicant and other co-accused persons chased the informant and his son, stopped their vehicles and thereafter assaulted them by means of weapons. In the statement itself, it is divulged that the purpose of the assault was to dissuade the informant from pursuing an earlier criminal case registered at his behest against the applicant, for which the applicant is facing prosecution for offence under Section 307 of the Indian Penal Code,

1860 (IPC), wherein he has been enlarged on bail.

4. The learned counsel for the applicant submits that if the narration of events given in the statement of the informant is to be accepted and it is to be compared with certain photographs of CCTV footage taken from the toll plaza where the prelude to the incident happened, it becomes sufficiently clear that the claim of the informant that the applicant was present at the time of the incident is falsified. It is submitted that even otherwise, there is no specific overt act attributed to the applicant in respect of the injuries allegedly inflicted on the victims, including the applicant.

5. It is emphasized that although the informant claimed that he had suffered injuries on his face by means of a knife used by a co-accused person, there is no material to indicate any injuries suffered by him.

6. On the other hand, the learned APP submits that the statement of the informant describes, in detail, the presence of the applicant at both stages i.e. at the toll plaza and also at the place where the actual assault took place. It is submitted that the applicant is on bail in the earlier offence registered against him at the behest of the informant and yet the present offence has been committed, which is a factor this Court may take into consideration. Attention of this Court is invited to injury certificate, showing that the informant has indeed suffered fractures on his ribs, which are classified as grievous injuries, apart from suffering four other simple injuries in the assault. It is submitted that in such a situation, this Court may not show any indulgence to the applicant.

7. This Court has considered the rival submissions. A perusal of the statement of the informant leading to registration of the FIR shows that on the date of the incident, in the night, at a particular toll plaza, the applicant and the co-accused persons threatened the son of the informant

and thereafter they chased the vehicles in which the informant and his son were travelling. Thereafter, they asked the informant and his son to get down from their vehicles, which they did and thereupon, the accused persons assaulted the informant and his son by means of knife and iron rod.

8. This Court is of the opinion that at this stage itself, it is not possible to give any finding on the claim made by the applicant that certain photographs taken from the CCTV footage of the toll plaza demonstrate that the applicant was not present at the time of the incident. Such selective photographs from the CCTV footage cannot be the basis for this Court to give a clean chit to the applicant at this stage itself. The police would certainly look at the CCTV footage during the course of investigation. Therefore, the contentions raised on behalf of the applicant based on such selected photographs from the CCTV footage cannot be accepted.

9. As regards the overt act attributed to the applicant, the statement of the informant certainly shows that the co-accused persons used knife and iron rod to assault the informant. But, it is crucial to note that the informant has stated about the presence of the applicant throughout the series of events, starting from the toll plaza. This is all the more significant because the informant has stated that the assault was launched at the behest of the applicant in order to dissuade the informant from pursuing the criminal case, which was registered against the applicant for an offence under Section 307 of the IPC, in which the informant himself is an aggrieved person. It is relevant to note here that in the said offence, the applicant was granted bail and it was during the period when he was on bail that the present offence has been committed. This is a serious matter and therefore, the presence of the applicant at the time of the incident being *prima facie* established, it cannot be said that

the applicant can take any advantage of the fact that actual use of weapons of assault is attributed to the co-accused persons.

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

(MANISH PITALE, J.)

Minal Parab