



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.539 OF 2024

(Adnan s/o Miralayak Ali Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Junaid Ahmed, Advocate for the applicant.
Mr. C.A. Lokhande, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- AUGUST 9, 2024

Apprehending the arrest at the hands of police in connection with Crime No.314/2024, registered with Police Station Warora, District Chandrapur for the offences punishable under Section 436 read with Section 34 of the Indian Penal Code, the applicant approached this Court for grant of pre-arrest bail.

2. The accusation against the present applicant is on the basis of report lodged by Aniket Dashrath Bhalerao on an allegation that on 24/03/2024 at about 9.00 p.m. he received a phone call of one Amit Mandavgane who is the resident of Warora and he called him at Jyotiba Phule square wherein there was a quarrel between the other co-accused and the informant and the other co-accused Karan Wani threatened him that if he has not paid the amount he would set his shop on fire. On 26/03/2024, he closed his shop at about 11:00 p.m. and went at home. At about 3:30 a.m. he received a phone call of one Arvind Wani who informed him that his shop is set

on fire. In the said incident, the damage was caused to his shop worth of Rs.6.00 lakh. On the basis of said report police have registered the crime against the present applicant as well as the other co-accused.

3. Learned Counsel for the applicant submitted that as far as the present applicant is concerned, the earlier quarrel was not with the present applicant and the informant but it was with one Karan and the informant. The threat was also given by said Karan. As far as the presence of the present applicant at the spot of incident is concerned none has witnessed the applicant at the spot, therefore, except the suspension there is no other material to connect the present applicant with the alleged offence. Considering there is no material to connect the present applicant with the alleged offence, the applicant be protected by granting ad-interim anticipatory bail.

4. Learned APP strongly opposed the said application on the ground that at the time of earlier incident, present applicant was along with the other co-accused. The CCTV footage shows that seven persons have set the shop of the informant on fire, therefore, the *prima facie* case is made out against the present applicant. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that as far as the earlier dispute is concerned

which was along with the co-accused Karan and not with the present applicant. There is no allegation that either present applicant has threatened the informant at the relevant time when the earlier dispute arose between them. Mere presence of the co-accused is not sufficient to have a motive to set the shop of the informant on fire. As far as the incident of setting the shop of informant on fire is concerned none has witnessed the present applicant at the spot of incident or setting the said shop on fire. Merely on suspicion, the applicant was implicated in the alleged offence. As far as the CCTV footage is concerned, the panchnama only shows that the CCTV footage was copied in pen drive. No statement of the person who transcribed the said CCTV footage is recorded by the investigating agency. Thus, considering the nature of the evidence, the applicant has made out a case for grant of anticipatory bail. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) In the event of arrest, the applicant - Adnan s/o Miralayak Ali in connection with Crime No.314/2024, registered with Police Station Warora, District Chandrapur for the offences punishable under Section 436 read with Section 34 of the Indian Penal Code, be released on anticipatory bail on executing a

PR.Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.

(iii) The applicant shall attend the concerned police station once in a week i.e. on every Sunday between 10.00 a.m. and 1.00 p.m. and shall cooperate with the investigating agency.

(iv) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

(v) The contravention of any of the condition would lead to the cancellation of bail.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)