



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
ANTICIPATORY BAIL APPLICATION NO. 860 OF 2025

Shoebakhtar Kausar Momin
Versus
The State of Maharashtra & Anr.

Mr. R. S. Deshmukh, Senior Advocate i/by Vishal Chavan for the Applicant.
Mr. R. S. Wani, APP for the State.

CORAM : ADVAIT M. SETHNA, J.
DATE : 4 AUGUST 2025

P. C.:

1. This is an Application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 as the Applicant in the present proceedings apprehends arrest.
2. These proceedings arise out of CR No.0081 of 2025. The FIR is lodged on 20 April 2025 at 13:51 hours by the Kingaon Police Station, District Latur. The date of occurrence of the alleged incident as stated in the FIR is 19 April 2025. The FIR has been registered under Sections 109, 332(b), 189(2), 189(4), 191(2), 191(3), 190, 115 and 351(2) of the Bharatiya Nyaya Sanhita, 2023 ("**BNS**"). The informant is one Ganesh Govind Dahifale, age 30 years, who is stated to be a farmer. There are 18 accused persons as named in the FIR, of which two are unknown. Accused No.9 is the Applicant before this Court.
3. The case of the complainant as noted in the FIR relates to an incident on the evening of 19 April 2025. The informant had visited Savarkar Chowk, Kingaon at a pan stall, where he was for some time when he received a phone call from his mother. He started walking towards his home, when on the left side of the road in front of Golden Boys clothing

shop at around 9:00 p.m. a motorcyclist hit the informant, due to which he fell on the road. His phone fell from his hand and one of his slippers got stuck in the said motorcycle. In a rage/anger, the informant stopped the motorcyclist and slapped him, who happened to be Aalim Bagwan Maulana from Kingaon. When the people around and the bystanders came to know of the said incident they started gathering and shouting, hurling abuses and threatening the informant with dire consequences including death as he hit the Maulana. On the said date at around 9:15 p.m. a group of about 40 to 50 people forcibly entered the house of the informant. Persons specifically named in the FIR were armed with iron rods, iron bars and bill hook (saptur) and with such weapons, they attempted to kill the informant punching him on his back and his stomach. When his mother came to rescue him, she was also beaten and pushed, by grabbing her by the neck, breaking her necklace and causing her to fall on the ground. According to the informant in addition to those persons in his house during the alleged attack/assault, the said Accused/Applicant was also present and the informant can identify him if shown to the informant.

4. With regard to the involvement of the present Accused/Applicant, it appears that the investigation would reveal that one Soheb Bhandewale i.e. the present Applicant is forthcoming in the investigation. In the FIR, Sohel Momin is the name of the present Applicant/Accused. It transpired that the present Applicant Sohel Momin is the same person as Soheb Momin Bhandewale. Though Mr. Deshmukh, Ld. senior counsel for the Applicant, has attempted to raise the contention of mistaken identity, he would not labour on this aspect and would agree that the Applicant/Accused Sohel Momin is the same person.

5. In the peculiar facts and circumstances, the role of the present Applicant/Accused as stated in the FIR is not specific. It appears that he was a part of the protesting mob. The informant claims to identify the

Applicant/Accused and several other assailants if shown to him. In the alleged attack in the house of the informant where specific persons are named to have attacked the informant and then his mother with alleged weapons, there is no specific mention of his name and/or role in this regard. Pertinently, during the hearing of the Application on 1 August 2025 when it was placed for Directions, Mr. Wani, Ld. APP would fairly submit that as far as the alleged offence under Section 109 of the BNS is concerned, in the present factual conspectus, it does not apply to this Applicant. According to him Section 332(b) of the BNS which deals with house trespass, would apply to the Applicant/Accused. However, the facts as disclosed in the FIR leaves this as a gray area as the informant states that he would be able to identify this Applicant when shown to him. All other sections invoking offences including being part of unlawful assembly are evidently bailable. The statement of the eye witness furnished by the Ld. APP from the case diary/investigation would *prima facie* reveal that the Applicant/Accused was sighted as part of the mob *inter alia* engaged in sloganeering who gathered on 19 April 2025 to protest against the incident in support of the said Maulana, who later left the spot after the police arrived, after which the said eye witness entered the house of the informant when he saw him injured. Pertinent it is to also note that the Injury Certificate which is stated to be based on specialist opinion of the primary health center, Kingaon of the Informant when he was examined on 19 April 2025 shows nature of injuries as Simple Injuries-multiple CLW, CLW, Blunt Trauma.

6. Thus, in the above factual matrix and for the reasons recorded above the nature of allegations qua this Applicant whose identity was initially in doubt, are not specific but vague, most of the alleged offences invoked in the FIR as noted above are bailable and the nature of injuries also appear to be Simple Injuries. For such reasons, prosecution has fallen short of making out a *prima facie* case against this Applicant. As the Applicant is

yet to be specifically identified which can be a part of the TI Parade when conducted, physical custody of this Applicant at this stage, though insisted by the prosecution, may not serve the purpose. The Applicant has undertaken to fully co-operate with the investigation and abide by the terms and conditions that this Court may consider imposing in the given facts and circumstances.

7. It is also to be noted that the Applicant is a practicing lawyer who as Mr. Deshmukh, Ld. senior counsel urged ought not to be subjected to the stigma of arrest in the given factual matrix. Having noted so, the court is equally constrained to sound a word of caution. Lawyers as rightly portrayed are the foot soldiers of our Constitution and the laws. They should be true to their responsibilities, image, larger societal role as envisaged under the Advocates Act and Rules framed thereunder and refrain from engaging in activities which would fall within contours of an offence under our jurisprudence. Though this Court in the given factual complexion, is inclined to exercise discretion in favour of this Applicant, it is made clear that grant of ABA being an exception and not the rule, the same indulgence may not be extended in future, if at all occasion so arises, *inter alia* on the ground that he is a lawyer, who are watch guards of the rule of law and certainly not above the law.

8. For the reasons above, the following Order would in my opinion meet the ends of justice:-

ORDER

- (i) In the event of arrest of the Applicant in connection with CR No.0081 of 2025 registered with Kingaon Police Station, District Latur for the offences punishable under Sections 109, 332(b), 189(2), 189(4), 191(2), 191(3), 190, 115 and 351(2) of the BNS, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.20,000 (Rupees

Twenty Thousand Only) with one or more sureties in the like amount.

- (ii) The Applicant shall cooperate with the investigation and shall attend the concerned police station on upcoming Friday i.e. 8 August 2025 and Saturday i.e. 9 August 2025 followed by two consecutive Saturdays i.e. 16 August 2025 and 23 August 2025 at 11:30 a.m. and then as and when required by the Investigating Officer, until filing of the charge-sheet.
 - (iii) The Applicant shall furnish details of residential address and other contact details such as mobile number etc. to the concerned police station. If there is any change in the contact details, the same shall be immediately intimated to the concerned police station.
 - (iv) The Applicant shall not leave the jurisdiction of the Court without prior permission/order of the Court, until the further orders and/or filing of the charge-sheet.
 - (v) The Applicant shall not in any manner whatsoever contact any of the accused persons in the present proceedings and/or any other witnesses and shall not influence the witness/es and/or tamper evidence in any manner whatsoever.
9. Needless to mention that the observations are *prima facie* for the purposes of the adjudication of this Anticipatory Bail Application.
10. The Anticipatory Bail Application is allowed in the above terms.

[ADVAIT M. SETHNA, J.]