



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
ANTICIPATORY BAIL APPLICATION NO. 826 OF 2025

Dnyaneshwar Prabhakar Khedkar

Versus

The State of Maharashtra & Anr.

Mr. R. G. Hange for the Applicant.

Mr. A. V. Lavte, APP for the State.

CORAM : ADVAIT M. SETHNA, J.

DATE : 23 JUNE 2025

P. C.:

1. The Applicant has filed the present application, under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**”) as he apprehends his arrest.

2. The proceedings relate to CR No.0095 of 2022. The FIR as stated, has been lodged on 12 March 2025 at 11.00 a.m. by the Chaklamba Police Station, Dist. Beed. The Sections invoked are 115(2), 118(1), 189(2), 190, 191(2) of the Bharatiya Nyaya Sanhita, 2023 (“**BNS**”). The statement of the complainant dated 5 March 2025 of one Dhananjay Ramchandra Kulkarni, aged 33 years, who is the Sub-Inspector of Police posted at Shirur Police Station, Shivaji Nagar, Dist. Beed.

Case in the FIR:-

3. Informant PSI Dhananjay Ramchandra Kulkarni, attached to

Shirur Police Station lodged the said FIR on 5 March 2025 stating that he is working as PSI at the said police station since last 8 months. On 5 March 2025 at about 7.00 p.m. while he was present on duty at Gommalwada Chowk, he received information that a video is being run on social media platform, in which it can be seen that some people are assaulting a person at village Bavi, Taluka Shirur Kasar. He saw the video. Out of the assailants, one person was assaulting the half naked victim with a wooden bat while others were beating him with fist, blows and sticks. Out of the five assailants, one was Satish Bhosale, resident of Zatewadi i.e. the present applicant, to whom the informant was knowing was seen assaulting the victim with bat and other four persons were unknown. The video was of 47 seconds. The victim in it was shouting “Bapre, Are Bapre” (“बापरे, आरे बापरे”) during the incidents. In such circumstances, the said FIR was lodged.

Submissions:-

4. Learned Advocate for the Applicant would first submit that the only allegation against the applicant is that he has assaulted the victim with fist, blows and sticks. According to him, no dangerous weapon was used by the Applicant. Accordingly, at the highest, an offence under Section 323 of the BNS, even if attracted, is a non-cognizable and bailable offence with imprisonment of three years. The name of the Applicant is not mentioned in the FIR, though it appears the

supplementary statement recorded much later. The statement of the victim and eye witnesses under Section 183 of the BNSS (Section 164 of Cr.P.C.) are not recorded. There is no recovery to be made from the Applicant. The Applicant does not have any criminal antecedent. For such reasons, the Applicant deserves to be granted anticipatory bail as he undertakes to cooperate with investigation, no custodial interrogation of the Applicant is warranted.

5. On the other hand, the learned APP would vehemently oppose the application. He would first submit that it cannot be disputed that the alleged incident did actually take place. The victim is not an imaginary person. Investigation so far has revealed that the Applicant and co-accused one Satish Bhosale and others had brought the victim from his residents at a place that is Sindkhed Raja in a vehicle and was attached under the influence of Satish Bhosale and after such attach was taken back to the said place and was left there. The vehicle used for such purpose of abduction of the victim is yet to be recovered. The statement of the victim recorded on 7 March 2025 would reveal that it is the present Applicant who assaulted the victim with fist, blows and stick. The injury certificate dated 8 April 2024 would also show that the victim sustained multiple injuries including fracture on the fifth metatarsal. The other injuries are noted as simple injuries. However, for the recovery of the vehicle, which was used for abducting of the victim in respect of the

alleged incident of assault which had taken place on 2 April 2024. According to him, in the given factual matrix, there is no delay in lodging the FIR. In such facts, anticipatory bail ought not to be granted and custodial interrogation of the Applicant is warranted.

Findings:-

6. On perusal of the FIR, the record and the submissions of the learned Advocate for the Applicant and learned APP for the state, it appears that the alleged incident of assault took place on 2 April 2024. However, the said incident came to be surfaced by a video which went viral, after which the complaint was lodged by the present complainant/informant on 5 March 2025. The date and time of the FIR is recorded as 12 March 2025 at 11.00 a.m. Thus, in the given facts and events there *prima facie* appears to be delay in lodging the FIR, which, at the *prima facie* stage, cannot be overlooked. It is pertinent to note that there is no role attributed to this Applicant in the FIR. Even by going by the prosecution's case, the injuries attributed to the victim by the Applicant appear to be in the nature of kicks, fists and blows. There is no mention of use of any weapon much less dangerous weapon on the part of this Applicant. The co-accused whose name is specifically mentioned i.e. one Satish Bhosale has been arrested. The injury certificate dated 8 April 2024 except the fifth metatarsal fracture, shows simple injuries. The

offences under Sections 115(2) is non-cognizable and bailable along with the other Sections in the FIR which are also bailable. In the given facts and circumstances the ingredients of Section 118(1) which refers to voluntarily causing hurt by dangerous weapon prima facie may not be attracted as far as the present Applicant is concerned. The Sections 118(2) and 117(4) were subsequently added the ingredients of which prima facie seem not to be applicable qua the present Applicant. It is submitted that no recovery remains to be effected from the present Applicant. The bat which was used during the alleged assault has been duly recovered. The record reveals also reveals that there is a prior FIR dated 8 December 2023 in CR No.0798 of 2023 lodged under Section 420 read with Section 34 of the Indian Penal Code by the present Applicant against the victim that is Kailash Wagh in the context of a dispute with regard to alleged non-payment of money by the said victim and supply of bogus gold.

7. Mr. Lavte, learned APP would strongly urged that the offending vehicle which was used in the abduction of the victim is yet to be recovered. In this context it may be noted that more than one year from the alleged incident has passed. The investigation has substantially progressed. It is also pertinent to note that neither in the present FIR nor subsequently the prosecution has not considered it appropriate to invoke the Sections applicable for abduction, in the given facts and

circumstances. This cannot be a reason justifiable enough to warrant custodial interrogation.

8. Thus, in my *prima facie* view, a case for the grant of anticipatory bail has been made out by the Applicant. Though investigation is the right of the prosecution, custodial interrogation in every case such as this cannot be the norm. In my considered view, the following order would meet the ends of justice:-

ORDER

- (i) In the event of arrest of the applicant in connection with CR No.0095 of 2022 registered with the Chaklamba Police Station, Dist. Beed for the offences punishable under Sections 115(2), 118(1), 189(2), 190 and 191(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 solvent surety in the like amount.
- (ii) The Applicant shall cooperate with the investigation and shall attend the concerned police station on every Monday at 11.30 a.m.
- (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 informed to the concerned police station.

- (iv) The Applicant shall not leave the jurisdiction of the Court without prior permission/order of the Court, until further orders.
- (v) The Applicant shall not influence the witness/es and/or tamper evidence in any manner whatsoever.
- (vi) Learned APP to communicate this order to the concerned police station forthwith.

9. Needless it is to observe that the above observations are *prima facie*, in the context of adjudication of this Anticipatory Bail Application.

10. The Anticipatory Bail Application is allowed in the above terms.

[ADVAIT M. SETHNA, J.]