

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

ANTICIPATORY BAIL APPLICATION NO. 3618 OF 2024

Avinash Anil Koli

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Satyavrat Joshi a/w Mr. Ishan Paradkar, Mr. Yash Fadtare and Mr. Ashish Kachole, for Applicant.
- Mr. Prashant Jadhav, APP for Respondent – State.

SHRIKANT
SHRINIVAS
MALANI

CORAM : MANISH PITALE, J.

DATE : 06th JANUARY, 2025.

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P. C. :

1. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with First Information Report No.0342 of 2024 dated 23rd November, 2024, registered at Police Station Bhudargad, District Kolhapur, for offences under Sections 109, 61(2), 45, 189(1), 189(2), 189(3), 191(2), 191(3) and 190 of the Bharatiya Nyaya Sanhita, 2023 (BNS); Sections 3(1), 4, 25 and 27 of the Arms Act, 1959 and Section 135 of the Maharashtra Police Act, 1951.

3. The statement of the informant, which led to registration of FIR, describes in graphic details as to the incident, which led to registration of FIR. The names of the persons present at the date and time of the incident have

been mentioned and the overt acts attributed to them are also specifically stated in the aforesaid statement.

4. It is pointed out that co-accused person Abhijit Anil Koli was granted anticipatory bail by this Court by order dated 18th December, 2024, passed in Anticipatory Bail Application No.3436 of 2024. The learned counsel for the applicant fairly states that the name of the said co-accused person was not mentioned in the FIR, while the name of the applicant herein was indeed mentioned in the subject FIR. It is further submitted that the contents of the FIR would show that there is no allegation of any overt act or use of any firearm on the part of the applicant, although his name has been mentioned alongwith other persons allegedly present at the date and time of the incident.

5. It is submitted that the aforesaid claim is rendered seriously doubtful on the basis of CCTV footage of the restaurant where the incident took place. It is submitted that the aforesaid CCTV footage was placed before the Sessions Court and while the Sessions Court did observe that such CCTV footage did not perhaps show the presence of the applicant, yet the anticipatory bail application was rejected, while recording the contention of the Investigating Officer that the vehicle used during the commission of the offence belonged to the applicant. It is submitted that this is a case of cross-

FIRs because, for the very incident FIR No.344 of 2024 dated 23rd November, 2024, was registered at the very same police station, wherein the alleged main accused person in the subject FIR is the informant. It is submitted that this factor may be taken into consideration.

6. On the other hand, the learned APP submits that the said main accused person Shrikant Tanaji Mohite was arrested and in his statement, he has clearly stated that the country made revolver used in the present incident by the said co-accused person was given to him by the applicant herein. It was submitted that the presence of the applicant is clearly stated in the subject FIR and looking to the seriousness of the offence, this Court may not show any indulgence to the applicant.

7. This Court has perused the documents on record. The case of co-accused person Abhijit Anil Koli, who was granted a relief of anticipatory bail is distinguishable on the basis that the name of the said co-accused person was not mentioned in the subject FIR, while the name of the applicant is clearly mentioned.

8. But, even if the contents of the subject FIR are taken into consideration, it is alleged that the applicant was present alongwith other co-accused persons and according to the first informant there was a quarrel between him and the applicant alongwith others before the actual incident of

shooting took place. The learned counsel for the applicant produced the CCTV footage of the restaurant i.e. the place of the incident for the perusal of this Court. The same would certainly be a matter of investigation, but having perused the same, this Court finds that a single person, allegedly the main accused Shrikant Tanaji Mohite, appears to have entered the restaurant when the shooting took place. In fact, the Sessions Court also observed that the CCTV footage perhaps does not show the presence of the present applicant at all. But, the Sessions Court appears to have relied upon the contention of the Investigating Officer that vehicle used at the time of commission of the offence belongs to the applicant.

9. Even if that be so, this Court finds that specific overt act is not attributed to the applicant with regard to the actual incident of shooting, which led to registration of the subject FIR. The police would certainly look into the CCTV footage during the course of investigation to examine the claim of the applicant that he was not present at the time of the incident at all. It is also to be noted that this is a case of cross-FIRs, as the said main co-accused person Shrikant Tanaji Mohite caused FIR No.344 of 2024, to be registered on the same day before the very same police Station, thereby showing that there are two versions to the said incident.

10. Apart from this, reliance is placed on behalf of the Investigating

Officer about the involvement of the applicant, presently, only on the statement of the alleged main co-accused person Shrikant Tanaji Mohite, who is stated to have mentioned the name of the applicant as the person, who handed over the country made revolver that was used at the time of the incident. Other than such a statement, there does not appear to be any material presently on record to link the applicant directly with the incident of actual shooting as per subject FIR.

11. This Court is convinced that the applicant has made out a case for allowing the application, subject to the applicant cooperating with the investigation.

12. In view of the above, the application is allowed in the following terms:

- (A) In the event the applicant is arrested in connection with FIR No.0342 of 2024 dated 23rd November, 2024, registered at Police Station Bhudargad, District Kolhapur, he shall be released on bail on furnishing PR Bond of ₹ 25,000/- with one or two sureties in the like amount to the satisfaction of the Trial Court.
- (B) The applicant shall remain present before the Investigating Officer on 08th January, 2025, between 10:00 a.m. and

12:00 noon and thereafter, as and when called by the Investigating Officer.

(C) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

(D) The applicant shall co-operate with the investigation and also in the proceedings before the Trial Court.

13. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

14. It is clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

15. The application stands disposed of.

(MANISH PITALE, J.)