

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.168 OF 2025

Vijay Raju Adiwai

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Vinayak R. Patil a/w. Mr. Ranjit B. Ade and Mr. Nilesh S. Rathod, Advocates for Applicant.
- Ms. Sarita M. Yadav, APP for Respondent – the State of Maharashtra.
- PSI – K. D. Nevase, Navghar Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 22, 2025

P.C.:

1. Heard Mr. Patil, learned Advocate for Applicant and Ms. Yadav, learned APP for Respondent – the State of Maharashtra.

2. This is an Application under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Anticipatory Bail or in connection with C.R. No.522 of 2024 registered with Navghar Police Station for offences punishable under Sections 3(5) and 118(1) of Bharatiya Nyaya Sanhita, 2023.

3. At request of Mr. Patil and Ms. Yadav, I have perused CCTV footage which has been collected by the police. Date of incident is 23.09.2024. From CCTV footage it is clearly evident that when Applicant and Complainant both stepped out of the Bar in which they

had their drinks at 02:30 a.m. in the night at that time there were two rickshaws standing in the middle of the road and out of one of the rickshaw, three persons got down and they had a verbal altercation first with with Complainant and the Applicant both.

4. Resultantly one of the person who got down from rickshaw mercilessly beat up the Complainant with fist blows and while running away in the rickshaw he gave three kick blows to him resultantly the Complainant lay on the ground. Thereafter the said assailant ran after Applicant also who escaped from his clutches. The aforesaid incident is vividly captured in the CCTV footage as can be seen. One of the ingredients which is missing in the CCTV footage is the alleged theory propounded by Complainant that he was assaulted by a beer bottle on his head. The incident having occurred four months ago, nothing is required to be recovered from the Applicant and the role of Applicant is not seen in the crime *prima facie* in the CCTV footage and it is because of assault by unknown person which prosecution is yet to identify, I am inclined to allow the present Application.

5. Ms. Yadav on behalf of prosecution has placed before me the injury medical certificate suffered by Complainant. She would submit that grievous injury has been suffered for which Complainant has suffered sutures and one Contused Lacerated Wound admeasuring 1 c.m. x 1.5 c.m. x 1 c.m. deep. She would submit that in that view of

the matter and injury being grievous, the Application be rejected. Had the injury been caused by Applicant before me, Ms. Yadav would have been right. However looking at the CCTV footage which has been shown to me in Court, I am clearly of the opinion that Applicant has no role whatsoever to play in the crime which is clearly gathered from the CCTV footage produced by the prosecution which is *prima facie* seen.

6. In that view of the matter, Applicant is granted pre-arrest bail on the following terms and conditions:-

ORDER

- (i) In the event of the arrest, the Applicant be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 5,000/- with one or two sureties in the like amount;
- (ii) Applicant shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case;
- (iii) Applicant shall attend the Police Station on the first Monday of every month between 10.00 a. m. and 12.00 noon until the Charge-sheet is filed and as and when called for by the Investigating Officer thereafter;

(iv) Applicant shall inform his latest place of residence and contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

7. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

8. Application is allowed in the aforesaid terms and is accordingly disposed of.

9. All concerned to act on the authenticated copy of this order.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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