

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

ANTICIPATORY BAIL APPLICATION NO. 920 OF 2025

**AMOL
DILIPRAO
NAWALE**

Vishnu Manik Kothule
Versus
State Of Maharashtra

...Applicant

...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 922 OF 2025

Sandeep Manik Kothule And Ors
Versus
State Of Maharashtra

...Applicants

...Respondent

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NAWALE
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Mr. Nitin Sejpai a/w. Ms. Pooja Sejpai a/w. Ms. Akshata Desai, Advocate
for the applicants in both ABA.

Mr. Amit Palkar, APP for the State ABA/920/2025.

Mr. Anand Shalgaonkar, APP for the State in ABA/922/2025.

Mr. Dinkar Munde, API Vadnerbhairav Police Station is present.

CORAM : RAJESH S. PATIL, J.

DATED : 3 APRIL 2025

P.C.:

1. These are the applications for anticipatory bail filed under Section 482 of the Bhartiya Nagarik Suraksha Sanhita in connection with C.R. NO.54/2025 registered with Wadner Bhairav Police Station for the offence punishable under Section 115 (2), 118(1), 118(2), 189(2), 190, 191(2), 191(3), 351(2), 351(3), 352 of the Bharatiya Nyay Sanhita and under Section 135, 37(1), 37(3) of the Maharashtra Police Act.

2. The complaint has been lodged, based on which an FIR has been registered. The role of the present applicant has been specifically mentioned in the said FIR.

3. On behalf of the present applicants, it is submitted that as far as two accused persons, Anil Kothule and Nilesh Wakte, are concerned, their roles have been prominently mentioned in the FIR, and both have been arrested. Regarding the accused Vishal Kothule, it is alleged that he used an iron rod to hit the complainant. As per the FIR, the iron rod was used to strike the complainant's back. There is no injury to the vital parts of the complainant's body. Since the two main accused have already been arrested, no purpose would be served by directing the police to arrest the present applicants. The applicants are willing to cooperate with the police, and their custodial interrogation is not necessary.

4. The learned APP submits that, as per the medical certificate issued by the hospital, the injury sustained by the complainant is of a grievous nature. The complaint states that the complainant had sought to recover his dues for the sale of grapes to one "Bunty Sheth." To evade making the payment, accused Anil Kothule allegedly telephonically threatened the complainant with dire consequences. He then called the complainant to Shani Chowk. Upon the complainant's arrival at Shani Chowk, all the accused persons started abusing him and severely

beating him with sticks, iron rod with fists and kick blows. The CCTV footage produced before the Sessions Court clearly shows all the accused persons were involved in assaulting the complainant. Furthermore, the footage indicates that all the accused arrived together in a vehicle and assaulted the complainant, demonstrating a predetermined intent to attack him. Therefore, the custody of the present applicants is necessary, as they shared a common object in assaulting the complainant. Some of them using an iron rod and wooden sticks while others attacked him with fists and kick blows. The custody of applicants is necessary for investigation.

5. I have heard both sides and have examined the FIR, the medical certificate produced by the learned APP from Civil Hospital Nashik, and other documents on record.

6. The learned APP also presented CCTV footage before the Sessions Court, which clearly captured the incident. The footage shows all the present applicants dragging the complainant from a car and assaulting him with sticks, an iron rod, fists and kick blows. The complainant had been demanding his payment for the sale of grapes from Mr. Bunty Sheth, and in order to evade payment, the present applicants, acting on behalf of Mr. Bunty Sheth, threatened the complainant and subsequently assaulted him. The CCTV footage clearly corroborates this act involving the present applicants. This aspect has

been discussed in the order passed by the Sessions Court, as well as in the FIR.

7. The fact that the applicants arrived in a car after having telephonically threatened the complainant, then forcibly pulled him out and assaulted him, indicates that they had a premeditated plan to confront and attack him.

8. The medical report from Civil Hospital Nashik shows that the complainant sustained grievous injuries. Two of the accused have been arrested. The physical presence of the accused for interrogation is necessary for completion of investigation. Moreover, there is a possibility of the applicants pressurizing and threatening the witnesses and likely to tamper with evidence.

9. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar C.K. and another*¹ in paragraph 12 has held as under :-

“..... In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima

1 (2022) 17 SCC 391

facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail."

(Emphasis supplied)

10. A similar view has been taken by the Supreme Court in the case of *the C.B.I. vs. Anil Sharma*², in paragraph 4 which reads as under:-

"4. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring would not conduct themselves as offenders."

(Emphasis supplied)

11. Taking into consideration allegations made in the FIR, the documents on record and considering the view taken by the Supreme Court in above judgments, according to me, no case is made out to grant protection to the present applicants. **The anticipatory bail application stands rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)

² AIR OnLine 1997 SC 797