

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

***CRIMINAL APPELLATE JURISDICTION***

**ANTICIPATORY BAIL APPLICATION NO. 968 OF 2025**

**VISHAL ANIL PAWAR AND ORS**

**..... APPLICANTS**

**VERSUS**

**STATE OF MAHARASHTRA & ANR.**

**..... RESPONDENTS**

Mr. Pranav h. Bhoite for the Applicants.

Ms. Rutuja A. Ambekar, A.P.P. for the State.

Mr. Sandeep Bali for the Respondent No.2.

Mr. Vijay Kolhe, P.S.I., Yavat Police Station.

**CORAM : RAJESH S. PATIL, J.**

**DATE : 25<sup>th</sup> APRIL, 2025**

**P.C. :-**

This application is filed for pre-arrest bail under section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 149/2025 dated 13<sup>th</sup> February, 2025 registered with Yavat Police Station, Pune Rural for the offence punishable under Sections 110, 118(1), 115(2), 189(2), 190, 191(2), 351(2), 351(3) and 352 of the Bharatiya Nyaya Sanhita, 2023.

2. As per the complaint filed, an FIR has been lodged. The role of the present applicant has been mentioned in the said FIR.

3. After going through the contents of the FIR and the documents

on record, so also, the Instagram post and the video shown which is also on Instagram of accused no.2 (Rajesh D. Pawar), I understand that the present applicant – all accused, insulted the informant firstly on 11<sup>th</sup> February, 2025. Thereafter on the same day, when they realized that the first informant is likely to file a complaint against them, they again met the first informant along with his nephew Suraj and Vaibhav, they started assaulting them by mean of hockey stick, wooden stump, iron rod, stick. The applicant and his two nephews got blows on their neck, chest and back. Thereafter, they took medical help. As the informant was not feeling well on 12<sup>th</sup> February, 2025, on the next date 13<sup>th</sup> February, 2025 a complaint was lodged with the police station.

4. While investigation was done, the police have found that one of the accused Rajesh Pawar on his Instagram account put up a video/photograph of all the accused persons standing together and he is sitting on the chair and on the background a song has been played in order to show the terror of the present applicants in connection with the subject incident. The learned A.P.P. has submitted the Investigating Officer's phone to show the video which is viral on the Instagram of the accused Rajesh Pawar. The said video after observing seems to be

made viral in order to create a fear amongst the local residents.

5. Considering the fact that the applicants are even now as argued by the learned A.P.P. still posting messages and songs on the Instagram of the incident to create fear amongst the local and terror in the locality. The electronic gazette by which the applicants are posting messages on the Instagram social media are yet to be recovered. The weapons in the crime are yet to be recovered. There is a strong apprehension that the present applicants – the accused if granted any kind of protective order, they will not co-operate with the investigation and they will threat the first informant and the witnesses in the present proceedings.

6. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar C.K. and another*<sup>1</sup> 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

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court hearing an anticipatory bail application should consider is the prima 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)

7. A similar view has been taken by the Supreme Court in the case of *the C.B.I. vs. Anil Sharma*<sup>2</sup>, 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)

8. Considering the view taken by the Supreme Court in above judgments, I am convinced that the present anticipatory bail application requires to be rejected. Hence, **the present anticipatory bail application stands rejected.**

[RAJESH S. PATIL, J.]