

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

Anticipatory Bail Application No.971 of 2025

Gaurav Bharat Dediya
Adult, Indian Inhabitant,
Aged about 22 yrs,
Permanent resident of Room No.1,
Aashirvad Nagar, Virar road,
near Mandir, Moregaon, Nallasopara
East, Tal.Vasai, Palghar 401209. Applicant.

Vs.

The State of Maharashtra
Inspector in Charge, Tulinj
police station
to be served through PP
High Court (AS), Mumbai. Respondent.

Mr Satish Kumar Pandey for the applicant.
Mr Arfan Sait, APP for respondent/State.
PI RA Gitte Tulinj Police Station.

**Coram : R.N.Laddha, J.
Date : 20 June 2025.**

P.C. :

This is an application for pre-arrest bail filed by the applicant, apprehending arrest in CR No.809 of 2023, registered at Tulinj police Station, Mira-Bhyander, Vasai-Virar, for the offences punishable under Sections 326, 323,

504, 143, 147, 148, 427 read with 149 of the Indian Penal Code, 1860.

2. The prosecution case, as set forth in the First Information Report (FIR), is that on 14 November 2023, the applicant, along with others, formed an unlawful assembly, the common object of which was to assault the informant. They, in furtherance of their common object, assaulted the informant using stones and an iron rod, thereby causing grievous injuries. During the course of the incident, the applicant and the co-accused forcibly snatched a gold chain belonging to the informant.

3. Mr Satish Kumar Pandey, the learned Counsel appearing on behalf of the applicant, contends that the applicant has been falsely implicated in the present case. He submits that, except for the offence under Section 326 of the IPC, all other charges levelled against the applicant are bailable. The learned Counsel submits that the essential ingredients required to constitute an offence under Section 326 of the IPC are neither present nor made out against the applicant. Hence, invocation of this section is legally unsustainable. He further submits that the informant was

not present at the scene of the incident at the relevant time. In support of this contention, the learned Counsel has placed on record an affidavit sworn by one Sanket Rajesh Tawade, who affirms that, at the material time, the informant was with him at a different location. The affidavit also asserts that no such incident, as alleged by the prosecution, took place.

4. On the other hand, Mr SS Pednekar, the learned Additional Public Prosecutor representing the respondent/State, vehemently opposes the applicant's plea for anticipatory bail. He contends that the nature of the offence alleged is grave and serious, and the grant of anticipatory bail at this stage would impede the ongoing investigation. The learned APP submits that there exists a substantial risk that the applicant, if enlarged on anticipatory bail, may tamper with prosecution evidence or influence witnesses. He further points out that the weapon used by the applicant in the commission of the offence has not yet been recovered, and custodial interrogation is essential for its recovery. The applicant has been specifically named in the FIR, and the preliminary investigation has disclosed his active and direct involvement in the crime. Furthermore,

independent eyewitnesses have implicated the applicant in the alleged incident. The learned APP also brings to the attention of this Court that the applicant has criminal antecedents, including previous involvement in offences of a similar nature.

5. It is a settled position in law that the power to grant anticipatory bail is extraordinary. While it has been acknowledged in many instances that regular bail is considered a general rule, the same analogy cannot be applied to anticipatory bail. The decision to grant anticipatory bail must be exercised with careful and prudent discretion by the Court, considering each case's specific circumstances. While exercising this power, the Court must exercise caution, as granting protection in a serious case could potentially lead to a miscarriage of justice or hinder the investigation. A profitable reference in this regard may be made to the decision of the Hon'ble Supreme Court in *Srikant Upadhyay & Ors. vs. State of Bihar & Anr., 2024 SCC OnLine SC 282*.

6. It is the case of the prosecution that on 13 November 2023, the informant, along with his friends, was present at

Central Park Naka. During that time, an incident of eve-teasing occurred, wherein an unidentified individual harassed a woman present at the location. Upon being subjected to the said misconduct, the woman raised an alarm. As a result, a crowd assembled at the scene, and the offender was apprehended by the bystanders, including the informant and his associates. Subsequently, the informant and others escorted the said person to the local police station for further legal action. It is further alleged that on 14 November 2023, i.e., the following day, the present applicant, along with the co-accused, arrived at the same location and launched a brutal and unprovoked physical assault on the informant. It is alleged that the accused used dangerous weapons, specifically stones and an iron rod, to inflict grievous injuries upon the informant. In the course of the said assault, it is alleged that the applicant and his accomplices forcefully snatched a gold chain worn by the informant.

7. Upon perusal of the records, it appears that the applicant has been specifically named in the FIR, wherein it is alleged that he assaulted the informant by using a stone which caused fracture injuries to his ribs and shoulder. It is

also alleged that the co-accused persons assaulted the informant with an iron rod and subjected him to blows with fists and kicks. The statements of the eyewitnesses, coupled with the medical documentation on record, lend corroboration to the version put forth by the informant. The weapons allegedly used by the applicant has yet to be recovered. There is sufficient material on record to demonstrate the applicant's active involvement in the commission of the offence. It further appears from the record that the applicant has attempted to exert undue influence on the informant with a view to compelling him to withdraw the complaint. An affidavit purportedly sworn by one Sanket Tawade has been placed on record, wherein it is claimed that the informant was in his company and not present at the scene of the incident at the relevant time. However, the plea of *alibi* raised on the strength of this affidavit cannot be entertained or given credence at this stage of the investigation. It is pertinent to note that the offence in question was registered in the year 2023, and the applicant has remained unavailable for investigation since then. Additionally, the applicant has criminal antecedents involving offences of a similar nature.

8. Having regard to the totality of the circumstances, including the gravity of the allegations, the conduct of the applicant and the nature of the material on record, I am not inclined to exercise discretion in favour of the applicant. Accordingly, the application stands rejected.

[R.N.Laddha,J.]

