

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

Anticipatory Bail Application No. 1532 of 2025

1. Naresh Purshotam Nainani
Age 37 years, Occ. Service,
Residing at B/30, Vijay CHS,
Chincholi Bunder, Lin Road,
Opp. Evershine Mall, Malad (W),
Mumbai - 400 064.

2. Pooja Prashant Anchan
Age 38 years, Occ. Service,
Presently residing at 401,
Vasundara, 4, Poonam Nagar
Complex, Mira Road.

... Applicants

versus

The State of Maharashtra
At the instance of Sr. Inspector of
Police, Nayanagar Police Station
Vide their F.I.R. No.I-144 of 2025.

... Respondent

Mr Sudeep Pasbola, Senior Counsel a/w Mr Ramprasad D., Mr
Chinmay Godse, Mr Abhijeet Badar i/b Mr Rajan Gurnani, for
the Applicants.

Mr Edgar Braganza, for the Intervenor.

Mr Prashant Jadhav, APP, for the Respondent / State.

API Suhel Pathan, Naya Nagar Police Station, is present.

Coram: R.N. Laddha, J.

Date: 18 June 2025

P.C.:

This is an application for pre-arrest bail filed by the applicant, apprehending arrest in CR No.144 of 2025, registered at Naya Nagar Police Station, Mira-Bhyander, Vasai-Virar, for offences punishable under Sections 118(2) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. The prosecution contends that the injured-informant and accused No.2 are legally wedded spouses and have a minor son from their marriage. Pursuant to a legal order, the informant was granted visitation rights to meet the child. In exercise of these rights, on 11 May 2025, at about 12:30 p.m., the informant visited the residence of accused No.2, his estranged wife, with the intention of meeting their son. After a delay of about ten minutes, applicant No.2 opened the door to her flat. At that time, applicant No.1 was also present inside the premises. The presence of applicant No.1 led to a verbal altercation, which escalated into a physical scuffle. During this incident, both the applicants physically assaulted the informant, causing him injuries.

3. Mr Sudeep Pasbola, the learned Senior Counsel appearing on behalf of the applicants, submits that, on a *prima facie* evaluation, no offence is made out against the applicants under

Section 118(2) r/w 3(5) of the BNS. It is contended that the learned Sessions Judge has erred in not appreciating the factual matrix of the case in its proper perspective, particularly the conduct and psychological disposition of the informant. The learned Senior Counsel further submits that the informant was the initial aggressor in the incident in question. Upon unexpectedly encountering applicant No.1 in the company of his estranged wife, the informant has lost his temper and initiated a physical assault upon her, using fist blows and kicks. In an attempt to protect her from such unwarranted aggression, applicant No.1 intervened and, in the process, sustained physical injuries himself. Mr Pasbola further submits that applicant No.2 has already instituted proceedings for dissolution of marriage against the informant under the provisions of the Hindu Marriage Act, 1955, on the ground of cruelty. The learned Senior Counsel contends that the present FIR has been maliciously lodged by the informant as a counterblast to the matrimonial proceedings pending before the family Court, with the sole intention of prejudicing the applicant's legal standing therein. With regard to the applicability of Section 118(2) of the BNS, the learned Senior Counsel argues that the use of human teeth, even if alleged, cannot buy any reasonable or legal interpretation be classified as a "dangerous weapon" or "means" as contemplated under

Section 118(2) of the BNS, and hence, the invocation of this Section is legally untenable. The learned Senior Counsel submits that the applicants have no criminal antecedents. Moreover, nothing is to be recovered or discovered from the applicants.

4. On the other hand, Mr Prashant Jadhav, the learned APP, appearing on behalf of the respondent /State submits that during the course of the incident in question, applicant No.2 physically restrained the informant, thereby facilitating an assault perpetrated by applicant No.1. Applicant No.1 inflicted serious bodily harm upon the informant, resulting in the loss of two teeth and the partial amputation of the informant's ear lobe. The injuries sustained by the informant are of a grievous nature. The investigation is at the nascent stage.

5. Upon perusing the records, it appears that the alleged incident occurred within the residential premises of applicant No.2, who is also the wife of the informant. The informant and the applicant No.2 are residing separately due to matrimonial discord. The informant is stated to have been granted visitation rights, pursuant to which he had approached the premises of applicant No.2 on the date of the incident. At the time of his arrival, applicant No.1 was allegedly present at the said

premises. Upon the informant raising objections or inquiries regarding the presence of applicant No.1, a physical altercation is stated to have ensued. It is alleged that applicant No.2 physically restrained the informant, following which applicant No.1 assaulted him. The assault resulted in the informant losing two of his teeth and sustaining grievous injuries, including mutilation of his left ear lobe. *Prima facie*, there is material to indicate that applicant No.1 bit and severed a portion of the informant's left ear lobe. The version of events narrated by the informant finds support in the statement recorded from the minor son, who is the child of both the informant and applicant No.2. Further, the medical documentation and reports on record appear to corroborate the nature and extent of injuries alleged in the FIR. The investigation into the matter is presently at a nascent stage.

6. In the circumstances, this Court is not inclined to exercise discretion in favour of the applicant. As a result, the application stands rejected.

[R.N. Laddha, J.]