

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

Anticipatory Bail Application No. 2225 of 2025

Sirajuddin Rehmatullah @

Rehemtulla Shaikh

Age 34, Occ: Business,

Room No. - Sonawane Chawl,

11 LP Road, Near Asif Apartment,

2nd Rabodi, Pin – 400 601.

... Applicant.

versus

1. The State of Maharashtra

At the instance of Rabodi Police Station

Vide C.R. No.0847 of 2024.

2. Amin Alam Beg

Adult, Age 27 years,

R/at. Rajayat Manzil, Flat No.401,

Rabatodi, Thane, Maharashtra, India.

...Respondents.

Mr Vishal Khetre a/w Mr Ramrao Jagtap, for the Applicant.

Mr S V Walve, APP, for Respondent / State.

Coram: R.N. Laddha, J.

Date: 8 August 2025

P.C.:

This is an application for pre-arrest bail filed by the applicant, who apprehends arrest in connection with CR No.847 of 2024, registered at Rabodi Police Station, Thane City, for offences punishable under Sections 109, 191(3),

189(2), 351(3) and 352 of the Bharatiya Nyaya Sanhita, 2023, and Sections 4 and 25 of the Arms Act, 1951.

2. The prosecution alleges that on 16 October 2024, the applicant, along with the co-accused, formed an unlawful assembly and, with the intention to kill the informant, launched a vicious attack on the informant using a sword, wooden sticks and knives, resulting in a severed thumb and severe injuries on vital parts of the body.

3. Mr Vishal Khetre, the learned Counsel appearing on behalf of the applicant, asserting the applicant's innocence, contends that the applicant has been falsely implicated in the crime. He submits that the applicant has not been named in the FIR and no specific role has been attributed to him. There is nothing to be recovered or discovered from the applicant, as the alleged weapon used in the crime has been recovered from the co-accused. The investigation has concluded, a charge sheet has been filed, and the co-accused has been released on bail. The learned Counsel further submits that the applicant has no criminal antecedents and is ready to abide by any conditions set forth by the Court if granted pre-arrest bail.

4. Mr SV Walve, the learned Additional Public Prosecutor representing the respondent/ State, opposing the applicant's

request for pre-arrest bail, contends that the offence is of a grave and serious nature. He submits that the applicant, along with the co-accused, participated in the unlawful assembly, assaulted the informant using wooden sticks, and inflicted severe injuries. Initially, the applicant was not named in the FIR, but his role was revealed during further investigation. The weapon used by the applicant in the crime has not yet been recovered, necessitating the applicant's custody. The learned APP, on instructions, submits that although a charge sheet has been filed against the co-accused, who is released on regular bail, the investigation against the applicant is ongoing. Furthermore, since the registration of the FIR in October 2024, the applicant has concealed himself from the investigating agency and impeded the legal process. If granted pre-arrest bail, the applicant may tamper with evidence or influence witnesses.

5. This Court has given anxious consideration to the rival contentions and perused the records.

6. It is a settled position in law that the power to grant anticipatory bail is extraordinary and must be used with caution and discretion, based on the specific facts of each case. Unlike regular bail, it cannot be treated as a general rule. Courts must avoid a one-size-fits-all approach, as granting such pre-arrest

bail in serious cases may affect the investigation. These aspects are also highlighted in the decision of the Hon'ble Supreme Court in Srikant Upadhyay & Ors. Vs State of Bihar & Anr., 2024 SCC OnLine SC 282.

7. A bare perusal of the records reveals that the applicant is prima facie implicated as an active participant in the alleged offence. The applicant, in connivance with the co-accused, is alleged to have carried out a brutal and premeditated assault on the informant using a wooden stick with the intent to cause grievous harm and endanger his life. There are eyewitnesses to the incident, and the severity of the assault is reflected in the nature of the injuries sustained by the informant. Although a charge sheet has been filed against the co-accused, who is released on bail, the investigation against the applicant is ongoing. The weapon alleged used by the applicant in the crime is yet to be recovered, necessitating his custody. Notably, the alleged incident occurred on 16 October 2024, and the crime was reported on 17 October 2024. However, the applicant approached the Sessions Court seeking anticipatory bail only on 17 March 2025, after the filing of the charge sheet against the co-accused and their release on bail. The applicant's request for pre-arrest bail was rejected on 25 March 2025, and the applicant preferred the present anticipatory bail application

before this Court only on 6 August 2025, without any plausible explanation for the delay. This sequence of events reflects not only a lack of diligence but also an apparent unwillingness on the part of the applicant to submit himself to the legal process. Furthermore, during the intervening period, the applicant remained untraceable and failed to extend any cooperation to the investigating agency, thereby impeding the progress of the investigation. Such conduct demonstrates a deliberate attempt to evade the due process of law and undermines the applicant's claim for discretionary relief.

8. Given the gravity of the accusations, the nature of the injuries caused, the ongoing investigation, and the applicant's conduct, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the application stands rejected.

(R.N. Laddha, J.)