



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (ABA) NO.480/2025

**Mohammad Khan Tajmir Khan @ Noor Mohammad Khan Tajmir
Khan**

..VS..

**State of Maharashtra, thr.PSO PS Lonar, taluka Lonar, District
Buldhana**

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's ordersao
.....

Court's or Judge's Order

Shri Firdos Mirza, Senior Counsel assisted by Shri Parvez Mirza, Advocate
for the Applicant.

Ms.T.H.Udeshi, Additional Public Prosecutor for the State.

CORAM : **URMILA JOSHI-PHALKE, J.**

CLOSED ON : **08/08/2025**

PRONOUNCED ON : **19/08/2025**

1. By this application under Section 482 of the
BNSS, the applicant seeks anticipatory bail in connection
with Crime No.113/2025 registered with the non-
applicant/police station for offences under Sections
109(1), 118(1), 189(4), 189(2), 190, 191(3), 191(2), 192,
351(2), and 352 of the BNS, 2023.

2. The crime is registered on the basis of a report

lodged by Mohd.Saddam Hussain Mohammad Naser residing at Lonar. As per the said report, on the Government Land, adjacent to the house of the complainant, there was a Well which was used by the Hindu Community. However, the applicant dismantled the said Well and erected a “Shadikhana” (Community Hall for Marriages). A grievance was made by the elder brother of the informant Mohd.Rizwan through the Collector, Buldhana and the Commissioner, Amravati Division and Municipal Council, Lonar. Accordingly, the Municipal Council issued Notice for illegal construction made on the Government Land to the applicant. On 25.3.2025, at about 4:15 pm, the informant and his father were sitting in Medical Store while Mohd.Rizwan was chit-chatting along with his friends. At that time, the applicant along with co-accused namely Sameer Khan and others came in front of the Medical Store holding wooden logs and sticks in their hands and raised a quarrel with Mohd.Rizwan on the ground of making complaint. As per the allegations,

Noor Mohd. inflicted blows of iron rod on the head and shoulder of Mohd.Rizwan. When the informant and his father went to mediate, co-accused Imran Khan and Sameer Khan had inflicted blows of wooden logs on the knee and forehead of the informant. As per the allegations, the applicant was continuously provoking other co-accused persons to kill the informant and the informant's brother and father. The informant was threatened to kill if the complaint is not withdrawn. Thereafter, the informant and his family members rescued themselves, approached the police station station, and a police constable was sent, on their request. On the basis of the said report, the police registered the crime.

3. Heard learned Senior Counsel Shri Firdos Mirza for the applicant and learned Additional Public Prosecutor Ms.T.H.Udeshi for the State.

4. Learned Senior Counsel for the applicant submitted that registration of the offence against the

applicant is an absolute misuse of process of law and only with a *mala fide* intention, in fact, his implication is due to his active role in the lawful removal of encroachment carried out by the informant's brother. There is a counter FIR lodged by the son of the applicant against the injured and his family members. In the said FIR, bearing No.115/2025, a specific statement was made by the family members of the applicant that the applicant sustained injuries caused by the informant and his other family members. However, the said FIR does not explain as to how the family members have sustained those injuries. Genesis of the crime is suppressed by the prosecution. Prior to this also, the FIR is lodged against the brother of the informant i.e. Mohd.Rizwan vide Crime No.55/2025 on 18.2.2025. The wife of the applicant also lodged FIR vide Crime No.437/2024. Similarly, various complaints with the Nagar Parishad at Lonar are made in respect of encroachment on the Government property and regarding taking illegal possession of Well by the brother of the

informant. The involvement of the applicant is in removal of encroachment on the Government Land by availing legal ways and, therefore, he is implicated in the crime. Insofar as role of the applicant is concerned, the FIR is only to the extent of instigating the other co-accused. In fact, the applicant was not present at the spot of the incident. He, at the relevant time, had been to his Lawyer. Therefore, after incident, immediately, the applicant communicated with the Superintendent of the Court and requested for CCTV Footage. The applicant has also approached the Lonar Police Station seeking CCTV Footage to ascertain the exact incident, but neither the police officials collected CCTV Footage nor the applicant could get the same from the Court. The applicant sought information under the Right to Information Act and it was informed to him that due to non-availability of the electricity, as far as police station is concerned, between 3:20 pm to 3:50 pm, CCTV is not available. Whereas, contrary communication is made by the concerned police station as there was no electricity

and, therefore, CCTV Footage is not available.

5. Learned Senior Counsel for the applicant further submitted that communication issued by Assistant Engineer of the MSEB, specifically shows that load shedding was only from 3:20 to 3:50 pm, i.e. only for 30 minutes. The Crime and Criminal Trafficking Network and System (the CCTNS) also discloses that in the police station, the FIRs are also uploaded on 16:13:37 and 16:05:52. Thus, the contention of the Investigating Officer that the electricity was not available from 3:00 to 5:00 pm is falsified by this document, which sufficiently shows that the investigation is not carried out fairly.

6. In support of his contentions, learned Senior Counsel for the applicant placed reliance on following decisions:

1. Padam Singh vs. State of U.P., reported in (2000)1 SCC 621;

2. Paramvir Singh Saini vs. Baljit Singh and ors, reported in AIR OnLine 2020 SC 871, and

3. Siddharam Satlingappa Mhetre vs. State of Maharashtra and Others, reported in (2011)1 SCC 694.

7. *Per contra*, learned Addl.P.P. for the State strongly opposed the application and submitted that the applicant is mastermind of the said crime. It was he on whose provocation, other co-accused have assaulted the injured. The injured and his son sustained multiple injuries. One of injured also sustained injury and was taken to the Government Hospital at Aurangabad for further treatment. During investigation, various documents are collected which show that various complaints were made against the applicant by the informant and his family members. The statements of all injured witnesses and eyewitnesses show involvement of the applicant in the alleged incident. Therefore, custodial interrogation of the applicant is required. The custodial interrogation is also required for recovery of the weapons.

She further submitted that as far as suppressing of genesis of the incident is concerned, the investigating officer has filed an affidavit contending that there was no electricity available from 3:00 to 5:00 pm. He further clarified that as the battery of CCTV Footage was not enough and was not in a proper condition, after non-availability electricity, it takes time to switch-on and connect with the CCTV Footage with cameras and, therefore, the CCTV Footage was not available. Considering involvement of the applicant, the application deserves to be rejected.

8. In support of her contentions, she placed reliance on **Criminal Appeal SLP (Cr.) No(s).10251/2024 (Nikita Jagannath Shetty vs. The State of Maharashtra and anr)** decided on 21.7.2025.

9. After hearing both the sides and perusing investigation papers, it reveals that the crime is registered on allegations that on the date of the incident, i.e. 25.3.2025, the injured and and other family members were

in Medical Store. The applicant and other co-accused came there holding wooden logs and sticks in their hands and assaulted the brother of the informant due to which they sustained injuries. The informant and his father have also sustained injuries. From the investigation papers, it reveals that there is a preivous enmity between the applicant and the informant. Regarding the incident dated 25.3.2025, a cross complaint vide Crime No115/2025 was also registered wherein presence of the applicant was not shown at the spot of the incident. Previously, Crime No.55/2025 was registered on 18.2.2025 under Sections 3(5), 126(2), 296(a), 351(2), 352 of the IPC on the basis of the report lodged by the brother of the applicant, wherein it is alleged that the informant and his brother illegally erected pipe line in the drain and, therefore, he filed complaint against them. On 17.2.2025, the informant and his brothers restrained and manhandled by abusing and fled away from the spot. Crime No.437/2024 was registered on the basis of report lodged by the wife of the

brother of the applicant alleging that as her family members have made the complaint regarding encroachment by the informant, she was abused and threatened by the informant and his family members. She has also made complaint to the Chief Officer, Nagar Parishad, Lonar. The documents filed on record also show that various villagers have approached the Chief Officer, Nagar Parishad and Tahsildar requesting to remove the encroachment around the Well which is used by the Hindu Community for religious purpose. The said Well was used by the Hindu Community since 1989 for immersion of Idols of God Ganesha and Goddess Durga. It was alleged that the informant and his family members have encroached near the said Well and an attempt was made to destroy that Well. The Chief Officer of the Nagar Parishad and the Tahsildar took cognizance of the said complaint and removed the encroachment. It revealed that the applicant took an active role in removing the said encroachment. A writ petition bearing No.7939/2022 was also filed before

this court, but this court has declined to interfere in the order passed by the respondent therein.

10. Thus, from the various documents, it reveals that the dispute between the informant and other villagers is on account of encroachment made by the informant and his family members. On that count, the alleged incident appears to have taken place. There was a scuffle between two groups and in that scuffle, the injuries are sustained by both the party members.

11. As far as the present crime is concerned, Mohd.Saddam Hussain Mohammad Naser, Mohd.Nasar Mohd. Usma, and Mohd.Rizwan have sustained injuries. The injuries sustained by Mohd.Rizwan appear to be grievous in nature, who is discharged from the hospital. As far as apprehension of death is concerned, the same is not there.

12. During the investigation, the statements of witnesses are recorded by the investigating officer. The

statements of witnesses disclose that the applicant was holding iron pipe and assaulted the injured by means of said pipe and, therefore, injured Rizwan has sustained injuries. Though some wooden sticks are recovered at the instance of the co-accused, no blood stains are found on the said weapons.

13. Admittedly, at this stage, appreciation of the evidence is not required. However, while considering the role of the applicant, except family members, no statements of the independent witnesses are recorded though the alleged incident has taken place on the public place. The wife of the applicant immediately approached the court of CJJD seeking the CCTV Footage. The applicant has also approached the Police Station at Lonar seeking CCTV Footage, but on the pretext of non-availability of electricity, it was informed that the CCTV Footage is not available. Explanation given by the investigating officer for non-availability of the CCTV Footage is not acceptable in the

light of the communications given by the Assistant Engineer, MSEB and Annexure-II extract of the CCTNS.

14. In **Paramvir Singh Saini** *supra*, on which learned counsel for the applicant placed reliance, the Hon'ble Apex Court has given various directions and sought compliance by way of affidavit from all the States. It was directed that Director General/Inspector General of Police of each State and Union Territory should issue directions to the person in charge of a Police Station to entrust the SHO of the concerned Police Station with the responsibility of assessing the working condition of the CCTV cameras installed in the police station and also to take corrective action to restore the functioning of all non-functional CCTV cameras. The SHO should also be made responsible for CCTV data maintenance, backup of data, fault rectification etc. It was further directed that State and Union Territory Governments should ensure that CCTV cameras are installed in each and every Police Station functioning in the

respective State and/or Union Territory. Further, in order to ensure that no part of a Police Station is left uncovered, it is imperative to ensure that CCTV cameras are installed at all entry and exit points; main gate of the police station; all lock-ups; all corridors; lobby/the reception area; all verandas/outhouses, Inspector's room; Sub- Inspector's room; areas outside the lock-up room; station hall; in front of the police station compound; outside (not inside) washrooms/toilets; Duty Officer's room; back part of the police station etc. It was further directed that systems that have to be installed must be equipped with night vision and must necessarily consist of audio as well as video footage. In areas in which there is either no electricity and/or internet, it shall be the duty of the States/Union Territories to provide the same as expeditiously as possible using any mode of providing electricity, including solar/wind power. The internet systems that are provided must also be systems which provide clear image resolutions and audio. Most important of all is the storage of CCTV camera

footage which can be done in digital video recorders and/or network video recorders. CCTV cameras must then be installed with such recording systems so that the data that is stored thereon shall be preserved for a period of 18 months. If the recording equipment, available in the market today, does not have the capacity to keep the recording for 18 months but for a lesser period of time, it shall be mandatory for all States, Union Territories and the Central Government to purchase one which allows storage for the maximum period possible, and, in any case, not below 1 year. It is also made clear that this will be reviewed by all the States so as to purchase equipment which is able to store the data for 18 months as soon as it is commercially available in the market.

15. By these directions, further responsibility was imposed on the station house officer of the police station that it is duty and responsibility for the working, maintenance and recording of CCTV of the said police

station. It shall be the duty and obligation of the station house officer or to immediately report to the DLOC any fault with equipment or malfunctioning CCTV. If the CCTV are not functioning in a particular police station, the concerned SHO shall inform the DLOC of the arrest and interrogation carried out in that police station during the said period and forward the said record to DLOC. If the concerned SHO has reported non working CCTV of a particular police station, the DLOC shall immediately repair and purchase of equipment which shall be done immediately .

16. In the light of the above directions, explanation given by the investigating officer is not acceptable. The explanation given by the police station officer is that the battery back up is not in a proper condition and he communicated the issue on 5.2.2025 to his superiors. There is no communication that what follow-up he has carried out in view of the guidelines and directions issued

by the Hon'ble Apex Court in the case of **Paramvir Singh Saini** *supra* and, therefore, there is substance in the contention of learned Senior Counsel for the applicant that the explanation given by the investigating officer is not acceptable.

17. Considering the entire background and especially in the light of the fact that only statements of the injured and other family members are recorded though the incident has taken place at a public place and more particularly the cross complaint filed does not show presence of the applicant at the spot of the incident, considerations for grant of anticipatory bail have been laid down by the Hon'ble Apex Court **Siddharam Satlingappa Mhetre vs. State of Maharashtra and Others** *supra* wherein it is held that while considering applications for grant of bail, the court has to consider the factors and parameters, which are as follows:

- i. The nature and gravity of the accusation and

the exact role of the accused must be properly comprehended before arrest is made;

ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

iii. The possibility of the applicant to flee from justice;

iv. The possibility of the accused's likelihood to repeat similar or the other offences;

v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

vii. The courts must evaluate the entire available

material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of Sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

ix. The court to consider reasonable apprehension of tampering of the witness or

apprehension of threat to the complainant;

x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

18. Learned Additional Public Prosecutor for the State also placed decision in the case of **Nikita Jagannath Shetty** *supra* wherein it is observed that anticipatory bail is an exceptional remedy and ought not to be granted in a routine manner. There must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave offences.

19. In the light of the above parameters laid down by the Hon'ble Apex Court, if facts of the present case are looked into, doubt appears as to the manner of

investigation carried out and, therefore, the contention of learned Senior Counsel for the applicant, as to the involvement of the applicant, that implication of the applicant is due to his active role in the lawful removal of the encroachment, is acceptable.

20. In this view of the matter, the application deserves to be allowed, as per order below:

ORDER

(1). The Criminal Application is **allowed**.

(2) The applicant shall be released on anticipatory bail in connection with Crime No.113/2025 registered with the non-applicant/police station for offences under Sections 109(1), 118(1), 189(4), 189(2), 190, 191(3), 191(2), 192, 351(2), and 352 of the BNS, 2023 on he executing a P.R.Bond in the sum of Rs.50,000/- with one solvent surety of the like amount.

(3) The applicant shall attend the police station twice a

week i.e. Monday and Thursday between 10:00 and 1:00 pm, till filing of the chargesheet, and shall cooperate with the investigating agency.

(4) The applicant shall not induce or threat or promise to any of witnesses connected with the crime in question and shall not tamper the prosecution evidence, either physically or through electronic media.

(5) The applicant shall not leave the jurisdiction of the Buldhana district without prior permission of the District Court at Buldhana.

(6) The applicant shall produce weapon before the investigating officer and the period will be considered as his custody in view of Section 23(2) of the Bharatiya Sakshya Adhiniyam, 2023.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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