



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

ANTICIPATORY BAIL APPLICATION NO. 109 OF 2026

**NAMDEO MARUTI AVHAD
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Vijay Anikrao Dhakne

APP for Respondents/State : Mr. P. D. Patil

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CORAM : MEHROZ K. PATHAN, J.

DATE : 18th FEBRUARY 2026

PER COURT :

1. Heard the learned Counsel for the Applicant and the learned APP for the State.
2. The Applicant has approached this Court, seeking anticipatory bail in connection with Crime No.954/2025 registered with MIDC Police Station, District Ahilyanagar for the offence punishable under Sections 118(1), 115(2), 352, 351(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023.
3. The case of the prosecution is that the Informant Santosh Kuttarwade is driver by profession. He is acquainted with Applicant/accused Namdeo Avhad and co-accused Ajay Dahiphale as they also parked their vehicles at Sanit Wamanbhau Parking. On 21.12.2025, at about 08:30 p.m., co-accused Ajay Dahiphale called

Informant who was present at that parking at Nagapur. When Informant went near them, Applicant/accused Namdeo asked him why he abused him on earlier day. Thereafter Applicant and co-accused Ajay assaulted the Informant by kick and fists. Two unknown persons also assaulted him. When Informant told Applicant to stop the assault, he picked up iron pipe and started assaulting Informant on his right hand. Thereafter, all of them abused Informant and went away. Due to assault, the right hand of Informant got fractured. Thereafter, Informant lodged the report.

4. The learned Counsel for the Applicant submits that the Applicant was not present at the spot and has been deliberately implicated in the present case due to previous enmity between the Applicant and the complainant. The complainant had been working as a driver in the transport company run by the Applicant for some time. Owing to certain disputes that had earlier arisen between them, the complainant has deliberately roped in the Applicant in the present crime with serious allegations of assault by means of a dangerous weapon. It is further submitted that the other two co-accused, who are also alleged to have assaulted the complainant, have been released on anticipatory bail. The Applicant has no criminal antecedents and is ready to abide by any conditions that may be imposed by this Court. Hence, the Applicant may be released on anticipatory bail.

5. The learned APP on the other hand, vehemently opposes

the present application on the ground that the complainant sustained grievous injuries, including a fracture on the wrist, due to the assault allegedly committed by the present Applicant. The injury certificate issued by Orthoplus Hospital, Ahilyanagar, obtained during the investigation, records a fracture of the distal end radius of the right wrist sustained by the complainant, which corroborates the allegations made in the FIR. It is further submitted that the other two persons who have been released on bail are attributed only with assault by means of fists and kick blows, whereas the Applicant is specifically assigned the role of causing voluntarily grievous hurt by means of a dangerous weapon. Thus, the principle of parity would not apply to the present Applicant. Hence, the Applicant may not be released on bail.

6. The learned Counsel for the Applicant relies upon the order of the Bombay High Court, Bench at Nagpur, in the case of **Atmaram Uttamrao Malekar vs. The State of Maharashtra**, passed in Criminal Application (ABA) No. 293/2023, paragraph no. 8 reads as under:

“8. Having heard both the sides and on perusal of the investigation papers, it appears that investigating officer has already recorded the statements of the relevant witness. This Court, while considering the interim prayer of the present applicant observed that in view of Arnesh Kumar’s case the Apex Court while considering the offences punishable up to 7 years, has held that the compliance of Section 41 of the Code of Criminal Procedure is mandatory and opined that if provisions of Section 41 of the Code is complied, then number of cases which come to the Court for grant of anticipatory bail will substantially reduce. The Apex Court has held that the Police Officer, before arresting, must put a question to himself; why arrest? Is it really required? What purpose it will serve? What object it will achieve? It is only after these questions are addressed and one or the other conditions of Section 41 of the Code is satisfied, power of arrest should be

exercised. The Court then directed the State Government to provide to all the Police Officers a check list containing specified sub-clauses under Section 41(1)(b)(ii). The Police Officers are required to forward the check list duly filled and furnish the reasons and material which necessitated the arrest while forwarding/producing the accused before the Magistrate for further detention. The Apex Court then directs the Magistrate to peruse the report furnished by the Police Officer and only after recording its satisfaction, the Magistrate will authorise detention. It is then directed that the decision not to arrest an accused should be forwarded to the Magistrate within two weeks from the date of the institution of the case. Such decision could only be extended by the Superintendent of Police of the district for the reasons to be recorded in writing. The Apex Court has then held that the failure to comply with the directions aforesaid shall apart from rendering the Police Officer concerned liable for departmental action, he shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction. The Apex Court has also held that non-compliance with Section 41 of the Code would entitle the accused to grant of bail.”

. The learned Counsel therefore submits that the Applicant may be released on anticipatory bail.

7. I have gone through the investigation papers made available by the learned APP. A perusal of the allegations in the FIR shows that the Applicant is attributed with the assault by means of an iron pipe from the table. The police conducted the spot panchanama and recovered the said iron rod from the spot. The investigation papers further include the injury certificate of the injured, Santosh Kuttarwade, which records a fracture of the distal end radius of the right wrist, noted to be grievous in nature. The said injury certificate corresponds with the allegations in the FIR that the Applicant assaulted the complainant on his right hand. The spot panchanama was conducted on 27.12.2025, after registration of the FIR on 26.12.2025. The injury certificate issued by Orthoplus Hospital shows

that the complainant was brought to the hospital on 23.12.2025 even though the incident is dated 21.12.2025. There is no explanation given by the complainant as to why he did not register the FIR immediately on 21.12.2025, though he has stated in the FIR that he was hospitalized. Though the incident took place on 21.12.2025, the complainant did not report it immediately. The offence was registered only on 26.12.2025, and it is surprising to note that the pipe was shown to be lying at the spot until 27.12.2025, when it was seized by the Investigating Officer. Be that as it may, these observations are prima facie in nature and may not influence the trial Court. However taking into consideration the considerable delay in lodging the FIR, false implication of Applicant cannot be ruled out. I am therefore inclined to protect the Applicant in exercise of powers under Section 482 of the BNSS. The apprehension of the learned APP can be taken care of by imposing stringent conditions. Hence the following order :

ORDER

(i) In the event of arrest of the Applicant - Namdeo Maruti Avhad in connection with Crime No.954/2025 registered with MIDC Police Station, District Ahilyanagar for the offence punishable under Sections 118(1), 115(2), 352, 351(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023, he be released on bail on furnishing P.R. bond of Rs.50,000/- (Rupees Fifty Thousands) with two solvent sureties in the like amount, on the following conditions :

(a) The Applicant is directed to attend MIDC Police Station,

District Ahilyanagar on 24th 25th of February, 2026 and 2nd 3rd 9th and 10th March of 2026 between 11:00 am. to 01:00 pm. and thereafter as and when called by the Investigating Officer till filing of the charge-sheet against the Applicant and co-operate with the Investigating Officer.

(b) The Applicant is directed not to tamper with the evidence.

(c) The Applicant is directed not enter the jurisdiction of MIDC Police Station, Ahilyanagar till filing of the charge-sheet except for attending the said dates as directed above.

(d) The Applicant is at liberty to make an application for seeking permission to enter the jurisdiction, to the Superintendent of Police, Ahilyanagar in case of emergency for entering the jurisdiction of MIDC Police Station.

(e) The Applicant shall attend the trial on each and every date unless so exempted by the trial Court.

(f) The Applicant shall submit his Aadhar and PAN Cards to the Investigating Officer and detailed addresses and phone numbers of himself and two of the near relatives.

(g) A single violation of the aforesaid conditions, would entitle the prosecution to seek cancellation of bail of the present Applicant.

(ii) With the aforesaid directions, the application is disposed of.

MEHROZ K. PATHAN
JUDGE

NATJEB..