

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1436 OF 2026

Nilesh Manojkumar Prajapati

.. **Applicant**

V/s.

State Of Maharashtra

.. **Respondent**

Mr. Niraj Prajapati with Mr. Ganesh Jadhav & Mr. Akhilesh Singh, for the Applicant.

Mr. Ashok S. Gawai, APP, for the Respondent-State.

CORAM : FARHAN P. DUBASH, J.

DATE : 5th JUNE 2026
(VACATION COURT)

ORDER:

1. By the present Application, the Applicant seeks pre-arrest bail in FIR bearing C.R. No. 0155 of 2026 dated 10th February 2026 registered with Kandivali Police Station, Mumbai, for the offences punishable under Sections 118(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (**BNS**). Pursuant to the investigation of the case, Sections 109(1), 352, 189(2), 189(4), 191(2) and 191(3) of the BNS were subsequently added to the FIR by the Respondent.
2. The Applicant was not named in the original FIR dated 10th February 2026, and his name was included subsequently, pursuant to the Supplementary statement of the Complainant / First Informant recorded during treatment at Dr. Babasaheb Ambedkar Hospital, Kandivali (West), Mumbai, the

following day. The FIR only named Mr. Akash Prajapati, (**accused no.1**), Mr. Aman Yadav (**accused no.2**) and Mr. Mintu (**accused no.3**) and one unknown person (**accused no.4**) who was subsequently identified as Mr. Ritesh Yadav.

3. For the purposes of deciding the present Application, it is necessary to set out the relevant facts in brief, which are set out hereunder:

- i. The FIR came to be lodged by the Complainant, Mr. Aman Dinesh Sharma, aged 19 years, wherein he stated that he is studying in First Year, B. Com at Nirmal Degree College, Mumbai and is also working at a cake shop at Gorai, Borivali (West), Mumbai. According to the FIR, the Complainant states that the accused persons reside in the same locality and are known to him.
- ii. It is alleged in the FIR that on 9th February 2026, between 10.30 p.m. and 10.45 p.m., while the Complainant was returning home from his workplace and reached the road leading to the drain near Ghausia Masjid, he noticed a crowd gathered there and stopped to ascertain the reason. At that time, two motorcycles arrived, and the assailants started abusing him.
- iii. The FIR further reveals that an unknown boy wearing a black sando vest struck the Complainant on the head from behind with a steel rod, while accused no.3 grabbed his throat. It is further alleged that accused no.3 shouted at the Complainant and told his accomplices to

hit him and thereafter, accused no. 1 struck the Complainant on the left side of his head with a wooden rod. The FIR also states that in the darkness, the Complainant was also hit on the face with a steel 'kada' and a cement gutter chamber (lid), after which the accused persons/assailants fled from the spot.

- iv. The FIR reveals that the Complainant was taken by his brother, Mr. Ankit Sharma and his friend, Mr. Jitendra Alok to Arvind Singh Chauhan Hospital, Laljipada and was thereafter referred to Shatabdi Hospital, Kandivali for further treatment, where he was admitted.
- v. The following day viz. 11th February 2026, a Supplementary Statement of the Complainant came to be recorded at the Dr. Babasaheb Ambedkar Hospital, Kandivali (West), Mumbai, when the Complainant added that due to inadvertence, he had forgotten to mention and include the name of the Applicant in the FIR. In his Supplementary Statement, the Complainant has asserted that the Applicant had attacked him on his face with a steel 'kada' due to which, he suffered injury on his mouth and started bleeding heavily.
- vi. Thereafter, the Chargesheet dated 2nd May 2026 came to be filed against the accused persons (including the Applicant) under the offences punishable under Sections 118(2), 109(1), 352, 189(2), 189(4), 191 (2), 191(3) read with Section 3(5) of the BNS.
- vii. Thereafter, the Applicant approached the Sessions Court at Dindoshi,

Borivali Division, Goregaon, Mumbai, by filing Anticipatory Bail Application No. 643 of 2026 under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (**BNSS**), which came to be rejected by an order dated 13th May 2026. A perusal of this order would reveal that one of the grounds for rejection was that the FIR revealed that one of the accused who was an unknown person was wearing a black sando baniyan had assaulted the Complainant on his head with a steel rod and the Supplementary Statement named the Applicant. The Sessions Court has further held that the Applicant was unable to *prima facie* corroborate his alibi and establish that he was not present on the spot where the incident had taken place, but was instead, at a marriage function in Malad. The Sessions Court has further held that since the offence alleged to have been committed by the Applicant is punishable under Section 109 of the BNS the punishment of which, may extend to life imprisonment and since the Final Report (Chargesheet) was not yet submitted against the Applicant, therefore the custodial interrogation of the Applicant was necessary.

4. Mr. Niraj Prajapati, learned Counsel appearing for the Applicant, submits that the Applicant has been falsely implicated in the present case and contends that the Applicant was not named in the FIR and that his name has been subsequently added only by way of the Supplementary Statement given by the Complainant.

5. Mr. Prajapati submits that there is no specific overt act attributed to the accused in the FIR except for a vague reference to an “unknown person” and that the description of the unknown accused does not match the physical appearance of the Applicant. He adds that the Applicant has no direct connection with the incident and was not even present at the spot of the incident, and has been dragged in only because he is the elder brother of accused no.1.
6. He submits that the applicant was attending a marriage ceremony along with his family and friends at the relevant time and that the Respondent has not placed any cogent material necessitating his custodial interrogation.
7. He further submits that out of the four accused, three of them are juveniles, who have since, already been released on bail by the Juvenile Justice Board, after their arrest. He adds that, the fourth accused person, namely Mr. Mintu is presently in judicial custody. He points out that the Chargesheet dated 2nd May 2026 has also now been filed in the matter. He therefore submits that no purpose would be served by subjecting the Applicant to custodial interrogation.
8. Lastly, he points out that there are no antecedents or criminal cases pending against the Applicant and that he is a student and has deep roots in the society. He submits that the Applicant is willing to cooperate with the investigation officer and ready to abide by any condition that may be imposed by this Court.

9. On the other hand, learned APP, Mr. Ashok S. Gawai opposes the present Application and submits that serious allegations have been levelled against the Applicant and that the Sessions Court has already rejected the Applicant's prayer for anticipatory bail, giving cogent reasons.
10. He submits that the present Applicant has been named during the course of the investigation and that the weapon allegedly used by him is yet to be recovered. He adds that, as the Applicant and the Complainant reside in the same locality, there exists a possibility of the Applicant tampering / threatening the prosecution witnesses, and that the Applicant may threaten or cause harm to the Complainant, and therefore, pre-arrest protection ought not to be granted to the Applicant.
11. I have perused the record and considered the rival submissions. At the outset, it is required to be noted that the present Applicant is not named in the FIR which clearly states that the Complainant was attacked by four persons who came on two motorcycles. Moreover, save and except one of the four said persons, who was described as an unknown person wearing a black sando baniyan, all the other persons were known to the Complainant and therefore, even named by him in the FIR. One of the said three identified persons, namely, Mr. Akash Prajapati (accused no. 1) is the younger brother of the Applicant who is stated to be known to the Complainant since they reside in the same locality. In the Supplementary Statement recorded by the Complainant, he has added the name of the

Applicant, and as a result, he asserts that he was assaulted by five persons. However, there is no mention of how the Applicant reached the spot of the incident, considering that the other four accused arrived there on two bikes. Moreover, since the Complainant admittedly knew the Applicant, there is no satisfactory explanation, (save and except for a casual statement attributing it to inadvertence), as to why his name was not included in the FIR in which the assault was explained by the Complainant in detail, more so when the Applicant is stated to have hit the Complainant on the face with a steel 'kada'.

12. Besides, the Chargesheet has now already been filed. The Applicant is a young student aged 19 years and has no criminal antecedents. The APP has not pointed out any specific circumstance demonstrating why custodial interrogation of the Applicant is indispensable for further investigation. In fact, three of the other accused persons have already secured bail. Considering this, in the facts and circumstances of the present case, this Court is of the view that the custodial interrogation of the Applicant is not warranted.
13. It is settled law, as held by the Apex Court in ***Siddharam Satlingappa Mhetre v. State of Maharashtra***¹ that whilst considering a prayer for anticipatory bail, a balance has to be struck between ensuring a free, fair and full investigation and protecting an accused from unnecessary

1 (2011) 1 SCC 694

harassment, humiliation and unjustified detention of the accused.

14. In the circumstances, the present Anticipatory Bail Application is allowed on the following terms :

- a) In the event of arrest of the Applicant in C.R. No. 0155 of 2026, dated 10th February 2026, registered with Kandivali Police Station, Mumbai for the offences punishable under Sections 3(5) 109(1), 118 (2), 352, 189(2), 189(4), 191(2) and 191(3) of the Bharatiya Nyaya Sanhita, 2023, the Applicant shall be released on bail on furnishing P.R./S/B. Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.
- b) The Applicant shall report to the Investigating Officer of Kandivali Police Station, Mumbai, on every alternate Saturday between 3.00 p.m. and 5.00 p.m. commencing from 13th June 2026 till 31st July 2026. Thereafter, as and when called upon by the Investigating Officer, the Applicant shall ensure his presence before the Investigating Officer.
- c) The Applicant shall cooperate with the investigation and shall not directly or indirectly tamper with the evidence nor influence any witnesses, or any person connected with the case.
- d) The Applicant shall not leave India without prior permission of the trial Court.

15. In the event the Applicant violates any of the conditions specified in this

order, the anticipatory bail granted herein shall be liable to be cancelled.

- 16.** It is also expressly clarified that the observations made in this order are limited to the disposal of the present Application, and the Trial Court shall proceed in the matter without being influenced by the observations made hereinabove.

(FARHAN P. DUBASH, J.)

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