

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.: - OF 2022

DISTRICT: THANE

First Application for Anticipatory bail, in Hon'ble High Court u / s. 438 of Cr.P.C. in connection with Ramnagar East Police Station C. R. No. I – 123 / 2022 registered under Section 307, 392, 323, 143, 323, 143, 144, 147, 148, 149 of I.P.C. and 37(1)135 of B. P. Act.

ABC ,)
Age 45 years, Occ. Business,)
Navin Ali,)
Ramnagar, Dist. Thane) Applicant

Versus

THE STATE OF MAHARASHTRA)
[Ramnagar Police Station]) Respondent

TO,

**THE HONORABLE CHIEF JUSTICE AND THE
OTHER HONORABLE COMPANION JUDGES OF
THE HONORABLE HIGH COURT OF JUDICATURE
AT BOMBAY.**

**THE HUMBLE APPLICATION OF THE
APPLICANT ABOVENAMED**

MOST RESPECTIFULLY SHEWETH:

1. The Applicants approaches this Hon'ble Court with the prayer that this Hon'ble Court may be pleased to exercised its jurisdiction under section 438 of Cr. P. C. and this Hon'ble court may be pleased to release the Applicant above named on bail on any suitable terms and conditions, as this Hon'ble Court may deem fit and proper, in the event of his arrest in connection with the Ramnagar East Police Station C. R. No. I – 123 / 2022 registered under Section 307, 392, 323, 143, 323, 143, 144, 147, 148, 149 of I.P.C. and 37(1)135 of B. P. Act.
2. The brief facts of the prosecution case as revels from F.I.R. are as under:

The complainant Ramesh Rao, R/o. Ramnagar has lodged FIR against the applicant and others on 15/9/2022 at 4:30 a.m. in respect of the incident that allegedly took place on 15/9/2022 at 2:00 a.m.

The complainant has alleged that he was having love affair with one Ashu, i.e. the daughter of the present applicant since last 6 month and when her parents came to know about the same, they stopped her college and tuitions since three month and therefore the complainant could not meet her and they were communicating on phone or through SMS. It is alleged that prior to 2 – 3 days the said Ashu asked the complainant to meet her on 15/9/2022 at 2:00 a.m.

It is alleged that accordingly the complainant went near the house of said Ashu and was waiting for her; however she did not came. It is alleged that while the complainant was proceedings towards the house of the said Ashu i.e. Applicant's house, he was given blows by sharp edged weapon on his head and back and thereafter he fell down and he was assaulted by fist blows and at that

time he saw the faces of the assailants. It is alleged that at that time his gold chain and mobile was snatched. The complainant has alleged that 1) ABC, 2) DEF, 3) GHI, 4) JKL, 5) MNO, 6) PQR, 7) STU, 8) UWX and 9) YZA and some others were the person who assaulted him.

The complainant further alleged that the accused thereafter took him near the house of ABC / Applicant and he was thrown there and thereafter Police came to the spot and he was taken to the Rural Hospital. The statement of complainant was recorded and offence was registered against the Applicant and others vide Ramnagar Police Station C. R. No. I – 123 / 2022 registered under Section 307, 392, 323, 143, 323, 143, 144, 147, 148, 149 of I.P.C. and 37(1)135 of B. P. Act.

Here to annexed and marked as “**Exhibit – A** ” is the Copy of the said F.I.R. in Ramnagar Police Station C. R. No. I – 123 / 2022.

3. The Applicant states that the FIR lodge by the complainant is absolutely false and on the contrary the complainant tried to outrage the modesty of one Ms. YZA i.e. the niece of the present applicant. She has contended that she slept in her house along with her family members on that day and she wake up at about 1:30 a.m. on 15/9/2013 for answering natures call and while she was proceeding to bathroom, which is at a distance of 50 feet from her residence, one person i.e. Ramesh Rai hugged her from behind in indecent manner and she started shouting and her family members gathered and caught him. At that time while he was trying to escape, he felled down and sustained injuries on his head. At that time the Applicant made phone call to police and they took Ramesh along with them and the complainant thereafter lodged FIR against said Ramesh Rai and on the basis of said complaint offence came to be registered against said Ramesh

Rai vide Ramnagar East Police Station C. R. No. I – 456 / 2022 under Section 354 of I.P.C. Here to annexed and marked as “**Exhibit – B**” is the Copy of the said F.I.R. in Ramnagar Police Station C. R. No. I – 456 / 2022

4. The Applicant states that after the said incident one YZA (sister in law of the Applicant) called the police to the said spot and she immediately went to the Police Station; however instead of recording complaint of YZA, the Police first recorded the complaint of said Ramesh Rai and initially the YZA was made to sit in the Police Station and then she was arrested and some other accused were also came to be arrested
5. The Applicant states that the Applicant was a councilor of Ramnagar Municipal Council in the last term and presently his wife is the councilor of said Council. The Applicant states that the Applicant is a active worker of Shivsena Party and he is also associated with various social and welfare activities in Ramnagar. The Applicant is falsely implicated in the alleged offence on account of political motive.
6. The Applicant states that in the circumstances the Applicant preferred an Application for Anticipatory bail bearing No. 555 / 2022 and after hearing both the side the Ld. Addl. Sessions Judge, Kalyan by an Order dated 30/9/2022 rejected the said Application. The Copy of the said Order dated 30/9/2022 passed by the Ld. Addl. Sessions Judge, Kalyan below Exh. 1 in Cri. Anticipatory Bail Appln. No. 555 of 2022 is annexed herewith and marked as “**Exhibit – B**”.
7. The Applicant states that the investigation of the offence has been practically completed considering the facts and circumstance it cannot be said that any offence u/s. 307 has been made out by the complainant. The applicant states that for the reasons stated above the applicant above named has reasons to believe that he may be arrested by the police on the accusation of having committed a

non-bailable offence and therefore the Applicant approaches this Hon'ble Court for releasing him on bail in the event of his arrest (anticipatory bail) on the following amongst many others grounds, which are pleaded without prejudice to one another:

GROUND

1. That the Applicant is innocent and he is falsely implicated in the alleged offence. He has nothing to do with the alleged offence.
2. That assuming the allegations made by the prosecution true for the sake of argument, the incident occurred in such situation that it can be seen that there was neither any motive nor intention to kill the complainant and as such the present applicant cannot be said to have committed an offence punishable u/s. 307 of I.P.C.
3. That the Complainant is residing at Apte Wadi and where as the accused Applicant are residing at Navin Shinde Wadi and considering the distance, there was no reason for the complainant to come near the residence of the Applicant at about 2:00 a.m. and that itself show the mala fide intentions of the complainant.
4. That the complainant was admitted in hospital from 15/9/2022 to 26/9/2022 and he has been discharged from the hospital and even injuries sustained by him are not serious. That apart the alleged weapons of assault and the mobile has been recovered and as such the presence of the applicant for custodial interrogation is not necessary.
5. That no overt act what so ever has been attributed to the present applicant

6. That taking in to consideration the totality of the circumstance by no stretch of imagination it can be said that the applicant can be held guilty of the offence punishable u/s. 307 of I.P.C. punishable with death or imprisonment for life.
7. That the Applicant is residing at the address mentioned herein above, along with his family and as such he will not abscond anywhere if he is released on bail.
8. The Applicant undertakes that he shall make himself available for interrogation by the police officer, in connection with this offence as and when required.
9. That the Applicant was elected as councilor of Ramnagar Municipal Council and he has been implicated in the said offence with some mala fide political motive;
10. That offence u/s. 354 of IPC is registered against the Complainant and it was the Applicant's sister in law, who made a phone call to the Police for informing the said incident to police and only on the basis of phone call made by her, the Police visited the spot.
11. That as per the observation of medical officer, the complainant sustained the injury due to blunt object and it falsifies the allegation of the complainant that the injury was caused by a sharp edged weapon and considering the nature and place of injury the allegations made by the complainant that he was assaulted from the back side are apparently false and on the contrary it support the story narrated by Ms. Varsha.

12. That the Applicants craves leave to add, alter or amend any of the ground aforesaid.
13. That the accused Applicants are ready and willing to furnish reasonable surety that this Hon'ble court deem fit.
14. That the Applicant is ready and willing to abide by the terms and conditions put by this Hon'ble court, if he is released on anticipatory bail.
15. That the accused Applicant will not misuse the liberty and will not tamper the evidence.
16. That there are no criminal antecedents against the Applicant.
17. No other application is filed in Supreme Court or any other Court regarding the Subject matter.

In the circumstances aforesaid the Applicants prays that,

- a) The Accused Applicants above named may please be released on bail in the event of his arrest in connection with Ramnagar Police Station C. R. No. I – 123 / 2022 registered under Section 307, 392, 323, 143, 323, 143, 144, 147, 148, 149 of I.P.C. and 37(1)135 of B. P. Act. on such terms and condition as this Honourable Court may deem fit and proper.
- b) That pending the hearing and final disposal of this application the applicant be released on interim bail in the event of his arrest, in connection with the Ramnagar Police Station C. R. No. I – 123 / 2022 registered under Section 307, 392, 323, 143, 323, 143, 144, 147, 148, 149 of I.P.C. and 37(1)135 of B. P. Act on such terms & conditions as this Hon'ble court deem fit and proper;
- c) Ad-interim relief, in terms of prayer clause (b) above,

d) And for such other and further relief as the nature and circumstance of the case may require.

AND FOR WHICH ACT OF KINDNESS AND JUSTICE, THE APPLICANT SHALL AS IN DUTYBOUND EVER PRAY.

MUMBAI

DATED: / / 20

Applicant

SHRI. SHREEKANT V. GAVAND

Advocate for the Applicant

VERIFICATION

I Shri. ABC, Age - 45 years, the Applicant above named, residing at village Ramnagar, Dist. Thane do hereby state on solemn affirmation that what is stated in the above paragraphs is true & correct to the best of my knowledge & information, which I believe to be true.

Mumbai

Date: / / 20

Applicant

I know the deponent.

Advocate for Applicant

DRAFT REPLY BY RESPONDENT

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

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DISTRICT: THANE

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AFFIDAVIT IN REPLY ON BEHALF OF WWF , i.e. THE ORI. COMPLAINANT

I, Smt. wwf, Aged 36 years, residing at xxx, the original complainant, do hereby state on solemn affirmation as under:

- 1) I say that I am the original complainant in the offence registered vide C. R. No. I – 123/2022 by Ramnagar Police Station against the accused / applicant u/s. Section 307, 392, 323, 143, 323, 143, 144, 147, 148, 149 of I.P.C. and 37(1)135 of B. P. Act. I say that I have gone through the applications for Anticipatory bail filed by the Applicant / accused and I am filing the present affidavit in reply for the purpose of opposing the said applications and also for the purpose of narrating few necessary facts, which are suppressed and/or falsely narrated by the Applicant in his Application.

2) I say that the true facts of the present case are as under:

a)

b)

c)

3) I say that in the circumstances I have lodged FIR against the accused. I say that the averments made in the FIR are true and correct and same may be treated as part and parcel of the present affidavit.

4) Add - Grounds Justifying how the offence falls within the four corners of the sections

5) I say that accused has committed offence punishable u/s. 999 of IPC and other sections as stated in FIR and relief of pre-arrest bail cannot be granted to the accused.

6) I say that there is prima facie case against the accused and as such benefit of pre-arrest bail cannot be given to the accused and therefore in the facts and circumstances of the case the applications for anticipatory bail filed by the Accused may kindly be rejected.

AND FOR WHICH ACT OF KINDNESS AND JUSTICE, THE APPLICANT SHALL AS IN DUTYBOUND EVER PRAY.

MUMBAI

DATED: / / 20

Respondent

SHRI. SHREEKANT V. GAVAND
Advocate for the Applicant

VERIFICATION

I Shri. WWF, Age - 36 years, the Applicant above named, residing at village Ramnagar, Dist. Thane do hereby state on solemn affirmation that what is stated in the above paragraphs is true & correct to the best of my knowledge & information, which I believe to be true.

Mumbai

Date: / / 20

Respondent

I know the deponent.

Advocate for Applicant