

MH060018622026



Order below Exh.1 in Criminal Anticipatory Bail Application
No.926/2026

1. This bail application is filed under section 482 of BNSS for grant of anticipatory bail to the applicant viz. **Abhishek Babulnath Tiwari** for an offence punishable under sections 109, 118(1), 189(1), 189(3), 352, 351(2), 3(5) of Bharatiya Nyaya Sanhita, 2023, registered at Mahatma Phule Chowk Police Station, vide C.R.No.289/2026.

2. **Facts of the case**

On 30.04.2026 at about 7.45 p.m. informant Vivek Padale told the accused persons not to commit nuisance near his house. Thereon, the accused persons started abusing him. Accused Rohan Ram assaulted him with iron rod on his right eyebrow, accused Rahul Ram assaulted fighter on his back and other body parts, accused Abhishek Tiwari and Sunil Ram gave him fists blows. So also, when his friends Taufik Sayyad and Vishal Rai came for his rescue, they were also assaulted. Hence, FIR is lodged.

3. **Grounds for anticipatory bail**

Applicant has prayed for anticipatory bail on following

grounds :

- i. No offence is committed by the applicant.
- ii. There is no prima-facie evidence against the applicant.
- iii. There is no possibility of his absconding.
- iv. Nothing is to be recovered from the applicant and hence his custodial interrogation is not required.

4. Say of Investigating Officer

Investigating Officer filed say and opposed bail application on following grounds :

- i. Offence is serious.
- ii. FIR reflects the applicant's name.
- iii. The CC TV Footage shows involvement of the applicant in the commission of the offence.
- iv. The vehicles used in the commission of the alleged offence are yet to be recovered.
- v. There is possibility of absconding.
- vi. There is possibility of tampering with the prosecution witnesses.

5. Heard Ld. Adv. Vishvajeet Satpute for applicant/accused.

6. Heard Ld. A.P.P. for State and Investigation Officer.

Reasons

7. The FIR clarifies the role attributed to the applicant. It

is alleged that on 30.04.2026 at 7.45 p.m. there was altercation between informant and applicant, his friends. Being annoyed, on the same day at about 10.00 p.m. applicant along with co-accused assaulted the informant. It is alleged that the applicant has given fist blows on the informant's face and the other parts of his body. According to the applicant, as the allegation against him is of giving fist blows to the informant, no recovery of any weapon is to be made at the instance of the applicant. Therefore, his custodial interrogation is not at all required.

8. On perusal of the Say given by the Investigating Officer it is apparent that the weapons and the vehicles used in the commission of the alleged offence are to be seized. From the say given by Investigating Officer it appears that for recovery of the weapons and the vehicles used in the commission of the alleged offence, applicant's custodial interrogation is necessary.

9. The Say further reveals that in spite of service of notice under section 35(3) of BNSS, 2023 applicant has not co-operated in the investigation. Ld. Advocate Satpute for applicant has relied upon following case laws :

[i] **Bijender Vs. State of Haryana**, arising out of SLP Criminal No.1079/2024;

[ii] **Vinay Kumar Gupta Vs. State of Madhya Pradesh**, arising out of SLP (Crl.) No.20215/2025;

[iii] **Rajpal Singh Vs. State of Punjab**, CRM-M-30774-2024;

[iv] **Narendra Kumar Vs. State of U.P.**, Criminal Misc.

Anticipatory Bail Application No.10916/2022;

[v] **Ravjeet Singh Vs. CBI, Criminal M.A. No.7496/2026;**

[vi] **Sanaulla alias Sana Vs. State of Karnataka, Criminal Petition No.2895/2020.**

The Hon'ble Apex Court as well as the Hon'ble High Courts have consistently held that 'co-operating in investigation does not mean that the accused is expected to make self incriminating statements. Not answering to the questions of the IO, would not ipso-facto mean there is non co-operation'. The Investigating Officer in his say has not clarified what does he mean non co-operation. It is no more res-integra that co-operation in investigation does not suppose the accused to make self incriminating statements. Therefore, the ground of non co-operation on the part of applicant does not sustain. However, still there is ground of recovery of weapons and vehicles used in the commission of the offence for which applicant's custodial interrogation is necessary. Hence, he does not deserve to be release on anticipatory bail. Hence, I pass the following order :

ORDER

- 1] Application stands rejected.
- 2] Inform the concerned police station accordingly.

Kalyan.
21.07.2026

(V. S. Deshmukh)
Additional Sessions Judge,
Kalyan.