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**THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**Anticipatory Bail Application No. 2866 of 2024**

Akash Rajendra Avhad  
Age – 30 yrs, Occ: Service  
R/at: Block No.42, Shikshak  
Colony, Near Vishal School,  
Taluka – Dhule, Dist.: Dhule

... Applicant

versus

The State of Maharashtra  
(Through Mumbai Railway  
Police Station)

... Respondent

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Mr Saurabh Ghag, along with Ms Divya Bhatia and Ms Akshata  
Sawant, for the applicant.

Mr Swapnil Pednekar, APP, for the respondent/ State.

API Harish Pol, Thane Railway Police, is present.

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**Coram: R.N. Laddha, J.**

**Date: 18 October 2024.**

**P.C.:**

By this application, the applicant seeks pre-arrest bail in  
connection with CR No.1131 of 2024, registered at Thane  
Railway Police Station, for offences punishable under Sections  
189(2), 191(2), 126(2), 190, 115(2), 352, 324(4), 351(3), 502  
and 311 of the Bharatiya Nyaya Sanhita, 2023 ('BNS').

2. It is the case of the prosecution that on 28 August 2024, around 8 a.m., the informant was travelling to his daughter's place in Kalyan on the Dhule-CSMT Express (Train No.11012) in the general coach from Chalisgaon. While standing on the train, he noticed a little girl sitting on the top seat in front of him; after the train reached Nashik Road Station, an upper berth seat became vacant about 10 kilometres ahead, so he sat there; a young man, around 24-25 years old, asked to sit next to him but due to limited space, the informant if he would sit on his lap, which angered the other passengers. At around 1 p.m., the train arrived at Kalyan Railway Station. The informant got down from the upper berth to retrieve his bag under the lower seat. A co-passenger suspected the bag contained meat and stopped him. The informant had two plastic jars of buffalo meat for his daughter. When questioned by the co-passengers children, he mistakenly said it was ox meat. The situation escalated, and the boys started abusing and filming him. One boy with a handkerchief over his mouth began hitting him, followed by others who beat him on the face, eyes, and stomach. His clothes were torn, and Rs.2800/- was missing from his pocket. They also threatened to throw him off the train and kill him. When the train reached Thane Railway Station around 1:30 p.m., the informant, the applicant and other accused persons got off and went to the police

station. The police did not lodge a complaint, so they all left. The informant threw the meat in Kalyan Creek and went to his daughter's place for treatment at the hospital.

3. Mr Saurabh Ghag, the learned Counsel appearing on behalf of the applicant, submits that the applicant was arrested for this crime on 1 September 2024 and presented before the Judicial Magistrate First Class, Kalyan. Since all the charges were bailable, the applicant was released on bail after furnishing sureties as required. However, on 2 September 2024, the prosecution added Sections 302 and 311 of the BNS. Consequently, there is a possibility that the applicant may be arrested for these newly added charges. The learned Counsel asserts that the applicant did not assault the informant and claimed that the police have falsely implicated him. Mr Ghag points out a two-day delay in filing the FIR and argues that the allegations are fabricated. He submits that there is nothing to be recovered from the applicant. The applicant is ready to cooperate with the investigation.

4. Mr Swapnil Pednekar, the learned Additional Public Prosecutor representing the respondent/ State, submits that the offence is serious. There are allegations that the applicant recorded the entire act of the assailants in his mobile phone, which is required to be seized. The co-accused are yet to be

arrested. The cash amount of Rs.2,800/- has to be recovered. The informant, a 71-year-old man, has been assaulted in the incident. The investigation is at a nascent stage, and the applicant's custody is necessary. The release of the applicant on pre-arrest bail would jeopardise the course of effective investigation.

5. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the material on record. Briefly, the allegations against the applicant are that on 28 August 2024, between 1 p.m. and 1:30 p.m., on the Dhule-CSMT train (No.11012), the informant was assaulted by five to six unknown individuals, including the applicant, over a jar of alleged ox meat. The applicant and the others restrained the informant from alighting at Kalyan Railway Station and assaulted and threatened to kill him. *Prima facie*, there is material to indicate that the applicant assaulted the informant and recorded the assault on his mobile phone. The informant lost Rs.2,800/- in the incident. The informant, a senior citizen aged about 71 years, was assaulted mercilessly. The investigation is at a nascent stage. Thus, to facilitate further investigation, custodial interrogation of the applicant would be necessary. Release of the applicant on pre-arrest bail would jeopardise the course of effective investigation, and therefore,

this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the application stands rejected.

**(R.N. Laddha, J.)**