

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

Criminal Application No. 5177 of 2016

District : Aurangabad

Sandeep Sureshrao Shirsath,
Age : 24 years,
Occupation : Education,
R/o. Row House No.07,
Niwas Colony,
Shahanoorwadi, Aurangabad. .. Applicant.

versus

The State of Maharashtra,
Through Commissioner of Police,
Aurangabad. .. Respondent.

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Mr. Siddhant S. Varma, Advocate, for the applicant.

*Mrs. V.N. Patil (Jadhav), Addl. Public Prosecutor,
for the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 1ST OCTOBER 2016

ORAL ORDER:

The applicant / accused in Crime No. 183/2016 registered with Usmanpura Police Station, Aurangabad, for offences punishable under Sections 326, 323, 504, read with Section 34 of the Indian Penal Code, by this application, is seeking pre-

arrest bail.

2. Heard the learned Counsel appearing for the applicant / accused. By drawing my attention to the FIR lodged by Suraj Rampal Mishra, the learned Counsel argued that role attributed to the present applicant is just to accompany others. It is argued that applicant was not accompanied by anybody else and even if the FIR is accepted, then also it is seen that the applicant had assaulted the informant by giving slap. The FIR is not attributing the role of hitting the informant by a sharp edged weapon by the present applicant and therefore, the applicant has not caused any grievous hurt to the informant. Therefore, the applicant is entitled for pre-arrest bail.

3. The learned Addl. Public Prosecutor opposed the application.

4. Perused papers of investigation. According to the prosecution case, as reflected from the FIR lodged by Suraj Mishra, he and his friend Dharmendra were drinking beer at Laxmi Bar Shop. Adjoining table was occupied by the present applicant and his three associates. As there were shouts, the informant asked them as to what happened. Upon that, the present applicant and his associates started assailing the informant. The informant further

reported that he therefore ran out of the beer bar. He was chased by the present applicant as well as his three associates. It is further reported that one of the associate of the present applicant had assaulted the informant on his face by a sharp edged weapon causing breaking of his two teeth.

5. Perusal of papers of investigation shows that the investigator has recorded statements of several witnesses. Witnesses are supporting the informant in respect of assault by the present applicant and his three associates. Witnesses are stating that after assault, there was profused bleeding from the mouth of the informant.

6. Papers of medical treatment of the informant shows that he has suffered four injuries in the nature of contused lacerated wound, blunt trauma and abrasion. Apart from this, the informant had suffered crown fracture of his tooth. The injury so suffered by the informant is a grievous hurt and the offence as such is non-bailable.

7. So far as the argument that the applicant had not actually inflicted the injury causing grievous hurt to the informant is concerned, the same is devoid of merit in view of application of Section 34 of the Indian Penal Code to the crime in question which is well supported by version of the informant

as well as witnesses. Even after initial assault when the informant flee from the spot, he was chased by the applicant and his three associates and thereafter, a blow by a sharp edged weapon was given on face of the informant causing fracture of his tooth. This prima facie discloses intention on the part of all accused persons in causing grievous hurt to the applicant. The act of giving blow by a sharp edged weapon to the informant does not appear to be a fresh and independent act springing wholly from the mind of the doer.

8. Therefore, no case for pre-arrest bail is made out. The Application is accordingly rejected.

(A.M. BADAR)
JUDGE

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