

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

3 CRIMINAL APPLICATION NO. 6105 OF 2017

YOGESH S/O. SUDAM SHINGADE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. N.B. Narwade, Advocate for applicant.

Mr. A.S. Shinde, A.P.P. for respondent.

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**CORAM : V.L. ACHLIYA, J.
DATED : 23rd NOVEMBER, 2017.**

ORAL ORDER:-

1. The applicant, apprehending arrest in connection with offences punishable u/s 143, 147, 148, 307, 323, 504, 506 of Indian Penal Code registered against him vide Crime No.I-182/2017 with Police Station MIDC, District Ahmednagar, preferred this application seeking anticipatory bail.

2. Heard the learned counsel for the applicant and learned A.P.P. for the State. Perused the FIR.

3. In nutshell, it is the contention of the learned counsel for the applicant that, even if contents of the F.I.R are taken into consideration to its face value and even presume to be true and correct it spells out that, no over act has been attributed to the applicant in commission of offence. He further submits that, facts stated in the F.I.R itself spell out that, assault was not pre mediated and the incident was occurred all of a sudden due to

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informant urinating near burrial ground. He submits that, the applicant was not present at the time of incident. There was a delay of two days in lodging F.I.R. The mother of the applicant had made representation on 12.07.2017 to the Superintendent of Police, Ahmednagar to make an inquiry in respect of false implication of the applicant in the case. On the date of incident, the applicant had gone to attend Dashkriya.

4. On the other hand, learned A.P.P opposed the application with contention that, the name of the applicant find place in the F.I.R. He submits that, the injured was unconscious. The his complaint was recorded after he regain consciousness. He further submits that, there are four witnesses to the incident, who have named the applicant as a person present on the spot and assaulted injured Sagar Rajendra Gade by means of fists and kick blows.

5. On due consideration of submissions advanced in the light of F.I.R, I am of the view, the case is made out to entertain the request of the applicant to grant anticipatory bail. As per F.I.R, the incident had occurred all of sudden on account of the informant found to be urinating near burrial ground, which was objected by the accused persons. In a sudden quarrel, the co-accused Sandip Kamble assaulted the informant on his head by means of wooden log, which resulted into causing him serious injury. So far as, the role attributed to present applicant is

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concerned it, confines to his presence on the spot along with the other accused. He is alleged to have assaulted Sagar R. Gade by means of fists and kick blow. On due consideration of overall facts of the case, it is difficult to believe that, the assault was made in furtherance of common object of unlawful assembly. There is unexplained delay of two days in lodging the complaint. In this view, case is made to entertain the application. I am, therefore, inclined to allow the application with certain conditions.

6. It is clarified that the observations as made above are made for the limited purpose of deciding the present application and same shall not be treated as the expression of view of this count as to merit of the case of prosecution.

7. Hence, the following order is passed:

:ORDER:

i) The application is allowed. In event of arrest of applicant in connection with Crime No.I-182/2017 registered at MIDC Police Station, District Ahmednagar, for the offences punishable u/s 143, 147, 148, 323, 504, 506 of Indian Penal Code, the applicant be released on bail his furnishing bail in the sum of Rs. 15,000/- with one surety in the like amount, on following condition:

(a) The applicant shall appear before the Investigating Officer on 26.11.2017 at 11.00 a.m. and thereafter as and when directed by the Investigating Officer and cooperate in the investigation.

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(b) The applicant shall attend the concerned Police Station on every Sunday in between 10.00 a.m. to 11.00 a.m. noon to record his appearance before the Investigating Officer, till filling of charge-sheet.

(c) The applicant shall not contact the complainant and indulge into any act amounting to tampering with the prosecution witnesses.

(d) The applicant shall not indulge into offence of similar in nature.

ii) In the event of breach of any of the conditions of bail, the bail granted to the applicant liable to be cancelled.

(V.L. ACHLIYA, J.)