

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

**ANTICIPATORY BAIL APPLICATION NO. 839 OF 2018**

Tushar Shankar Nakati

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Sunil Kamble I/b. Satyavrat Joshi for the applicant.

Mr. Ajay Patil, APP for the State.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**

**DATED: 09<sup>th</sup> OCTOBER, 2018.**

**P.C.:**

. This is an application for anticipatory bail under section 438 of Criminal Procedure Code, filed by the aforesaid applicants, apprehending their arrest in C.R.No.86/2018 registered with Paud Police Station, Pune Rural, District Pune for offences punishable under sections 307, 326, 323, 504, 506 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Sunil Kamble, learned counsel for the applicant. He submits that the applicant was not armed with any weapon and that he had not inflicted any injury on the first informant by means of any weapon. The only allegations against the applicant is that he had assaulted first informant by kicks and blows. He submits that the sickle which was used by the co-accused for inflicting injury on the first informant has already been recovered and that the presence of the

applicant is not required in custody for the purpose of investigation. Mr. Ajay Patil, learned APP submits that the first informant had sustained injuries which are stated to be grievous in nature.

3. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

4. The aforesaid crime was registered pursuant to the first information report lodged by Ganesh Dabhade. A perusal of the said first information report prima facie reveals that on 31/03/2018, at about 08:00 p.m., one Abhijeet Nakati had called Arjun Sopan Dahibate near the house of Nana Damu Dahibate. The first informant and Arjun Sopan Dahibate met Abhijeet Nakati near the house of Nana Damu Dahibate. The first informant had alleged that the present applicant and two others were present near the house of Nana Dahibate. There was some altercation between Abhijeet Nakati and Arjun Dahibate. The co-accused Yogesh abused the first informant and when he told him not to abuse, the other co-accused Sharad Dabhade gave a blow of koita/sickle on his head. It is alleged that the applicant and others assaulted him with kicks and blows.

5. The medical certificate prima facie reveals that the first informant

had sustained CLW on left parietal temporal region and swelling of left index finger which was of grievous nature.

6. The material on record does not prima facie indicate that the applicant herein was armed with any weapon. The only role played by him is that he had assaulted the first informant by kicks and blows. The prosecution has invoked principle of vicarious liability by invoking provisions of section 34 of the Indian Penal Code. Suffice it to say that question whether the applicant had shared common intention and/or whether he had assaulted the first informant by kicks and blows in furtherance of the common intention, is a matter which will have to be decided on merits.

7. The nature of the allegations levelled against the applicant do not justify custodial interrogation. Furthermore, investigation is concluded and charge sheet has already been filed. The applicant is a permanent resident of Dhakane, Taluka Mulshi, Pune and there are no chances of the applicant absconding and/or thwarting the course of justice. The applicant has no criminal antecedents. Considering the above facts and circumstances, in my considered view, the applicant is entitled for pre-arrest bail. Hence, the Application is allowed on following terms and conditions :-

(a) In the event of arrest of the applicant in C.R.No.86/2018 registered with Paud Police Station, Pune Rural, District Pune, he shall be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two solvent sureties in the like amount, to the satisfaction of the Investigation Officer.

(b) The applicant shall remain present before the Investigation Officer from 15/10/2018 for a period of four days and further as and when required by the Investigation Officer for the purpose of interrogation/investigation.

(c) The applicant shall furnish his permanent and temporary address, if any, and his contact details to the Investigation Officer.

(d) The applicant shall not change his residential address without prior intimation to the Investigation Officer.

(e) The applicant shall not interfere with the first informant or the other witnesses in any manner.

**(SMT. ANUJA PRABHUDESSAI, J.)**