

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1437 OF 2019**

Shahdev Shankar Ghogare

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Satyavrat Joshi I/b. Nitin J. Mohite for the applicant.

Mr. J.S. Lohakare, APP for the State

Mr. S.V. Kadam, PSI Rajgad P.S. Pune.

**CORAM : SARANG V. KOTWAL, J.
DATE : 3rd SEPTEMBER, 2019.**

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R. No. 154 of 2019 registered with Rajgad Police Station, Pune under Section 307, 143, 147, 148, 504, 506, 149 of the Indian Penal Code and Section 135 of Mumbai Police Act.

2. The offence is registered on 24th April, 2019 by one Sagar Balasaheb Chor. He has stated in his first information that prior to 8 to 10 days of the incident of assault there was a quarrel

between one Nilesh Ghogare and informant's brother Akshay. On 23.04.2019 at about 9.00 p.m. the informant and his brother were called by Nilesh Ghogare to a spot near Arvi Stop. Therefore, the informant and his brother Akshay went to that spot in their four wheeler. They saw the present applicant and other co-accused Umesh, Santosh, Sangar and Nilesh Ghogare. It is alleged that, at that time applicant started abusing the informant and his brother. He slapped Akshay. At that time, the informant's friend Vivek came there. It is alleged that the applicant snatched an iron rod from the hands of informant's brother Akshay and assaulted Vivek on his head and caused serious injury. Akshay was also assaulted by applicant with that iron rod. Thereafter, people who gathered there separated both groups. The injured Akshay and Vivek were removed to hospital and then the first information report was lodged.

3. I have heard, Mr. Satyavrat Joshi for the applicant and Smt. J.S. Lohakare, APP for the State.

4. The learned counsel for the applicant Mr. Joshi submitted that the incident is not correctly described in the F.I.R. In fact, Nilesh Ghogare had lodged F.I.R. vide C.R. No.153 of 2019 at the same police station. He has described the incident. That F.I.R. shows that Akshay assaulted applicant's brother Umesh on his head with an iron rod, even applicant was assaulted. The applicant and Umesh were admitted to hospital. Mr. Joshi submitted that thereafter Umesh succumbed to injuries. The applicant had to take treatment for a long period for his injuries, even applicant's injuries were serious. He submitted that the applicant lost his brother in the same incident.

5. The learned APP showed the papers of investigation. She also showed the injury certificate in respect of injury suffered by the applicant.

6. I have considered the material produced before me and as rightly pointed out by Mr. Joshi the applicant's brother has lost his life in the same incident. The investigation papers show that

applicant's brother was assaulted by Akshay. Akshay himself is a witness in the case against the present applicant. Akshay himself has stated that the applicant took out an iron rod from him and assaulted Vivek on his head. This iron rod was used for causing death of Umesh by assaulting on his head. Though, injuries sustained by Vivek appears to be serious, as rightly pointed by Mr. Joshi the applicant had to use this rod by snatching it away from Akshay, after his brother Umesh was seriously assaulted.

7. At this stage, it is not proper to record anything to the effect that applicant could have had right of self-defence. That would be the subject matter of the trial. However, at this stage, the fact remains that applicant had not brought the weapon, he himself was assaulted by the rod brought by Akshay. Applicant's brother was seriously injured and lost his life. Therefore, at this stage there is a strong possibility that the applicant is implicated falsely. As the custodial interrogation of the applicant is not justifiable, he deserves the protection of anticipatory bail. Hence, the following order -

ORDER

- 1) In the event of his arrest in connection with Crime No.154/2019 registered with Rajgad Police Station, Pune, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/-(Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- 2) The applicant shall attend the concerned police station on every Saturday from 1.00 to 3.00 p.m. till filing of the charge-sheet.

(SARANG V. KOTWAL, J.)