

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

ANTICIPATORY BAIL APPLICATION NO. 2069 OF 2019

Mr. Rohit Anil Yadav Applicant

Versus

The State of Maharashtra Respondent

Mr. Sandeep S. Salunkhe, Advocate for the Applicant.

Smt. A. A. Takalkar, APP for the State/Respondent.

Mr. Ganesh H. Nimbalkar, PSI, Pandharpur Town Police Station
present.

CORAM : SARANG V. KOTWAL, J.

DATE : 24th SEPTEMBER, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 959 of 2019 registered with Pandharpur Police Station, under sections 307 r/w. 34 of the Indian Penal Code.

2. The FIR is lodged by one Balika Alat, who was mother of the victim Rushikesh. She has stated in her FIR that on 01/06/2019 she was informed by one Dharmaraj that her son was assaulted by 3 to 4 persons. She went near LIC office where the

incident had taken place. She had seen that the victim Rushikesh was lying injured in a serious condition on that spot and he had suffered injuries on his head, back, hands and legs. He was taken to the hospital and thereafter this FIR was lodged.

3. Heard Mr. Sandeep Salunkhe, learned counsel for the Applicant and Smt. A. A. Takalkar, learned APP for the State/Respondent.

4. Learned counsel for the applicant submitted that the statement of the victim Rushikesh recorded U/s.164 of Cr.p.c. mentions that he was assaulted by Jagan Sathe, Shubham Kamble, Umesh Kamble and others. He had not named the applicant. The applicant is not involved in the offence and, therefore, he should be protected by anticipatory bail.

5. Learned APP opposed this application. She produced papers of investigation which contains statements of two eye witnesses Dharmaji Waghmare and Rajesh @ Pappu Haribhau Pawar. Both of them have stated that they had seen the actual incident of assault. They have specifically named Omkar Sathe, Rutik Waghmare, Shubham Kamble, Atul Waghmare, Keshav

Shinde and the applicant assaulting the victim. Omkar Sathe and Rutik Waghmare were assaulting him with wooden stick. Others were also assaulting the victim with stick and fist blows. Thus, both eye witnesses have specifically named the applicant. I have perused the injury certificate which shows that the victim had suffered grievous injuries. There was left frontal lobe contusions and fracture of left parieto temporal bone. There was internal hemorrhage. Thus, the victim was mercilessly beaten and the present applicant was amongst the assailants. Though, there was no allegation that he had assaulted the victim with any weapon, the fact remains that all of them had come together and have assaulted the victim at the same time. At this stage, it is not proper to distinguish the role of each of the accused. In this view of the matter, considering the gravity of the offence, no case for anticipatory bail is made out.

6. The application is rejected.

(SARANG V. KOTWAL, J.)