

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.103 OF 2020

Laxman Punjaram Gangurde

Applicant

versus

The State of Maharashtra

Respondent

Mr.Sandeep D. Shinde i/by Ergo Juris for applicant.

Mr.M.G.Patil, APP, for State.

Mr.K.S.Sapkale, API, Pimpalgaon Baswant Police Station, Nashik Rural, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 20th January 2020

PC :

1. This is an application for anticipatory bail in CR No.124 of 2019 registered with Pimpalgaon Baswant Police Station, Nashik Rural, for offences under Sections 307, 326, 324, 323, 504, 506, 143, 147, 148, 149 of Indian Penal Code and Sections 37(1) and 135 of Bombay Police Act and under Sections 4 and 25 of Arms Act.

2. The FIR was lodged on 4th December 2019 alleging that on 3rd December 2019 the complainant and his friends had visited Bhagwat Beer Bar situated at old Agra Road. At that time Bharat Gangurde who was accompanying the complainant, received a call from Mohit Gangurde. He was informed that in connection with the quarrel taken place in the afternoon, he intends to apologise. Bharat Gangurde told him to come at Bhagwat Beer Bar. At about 9.45 pm, several persons including applicant and other unknown persons

came near Bhagwat Beer Bar. The associates of complainant were standing outside the beer bar. There was scuffle going on between them. When the complainant and his friends tried to intervene, three unknown persons and Mohit Gangurde brought some weapons like swords and intended to assault the complainant and others. Mohit Gangurde gave blow of sword on Rohidas Gangurde. He avoided the blow and received injury at his hand. Sandip Gangurde assaulted Ashish Pathare by fighter on his face. Rohit Gangurde also sustained injury to his hand. Vilas Gangurde was assaulted by fist blows by Nitin Gangurde. Three unknown persons assaulted the injured persons. Other persons including the applicant had assaulted by fist and kick blows and threatened the complainant and his associates. Noticing the incident, crowd was gathered at the scene of offence and the assailants ran away.

3. Learned advocate for the applicant submits that no role has been assigned to the applicant in the FIR. The applicant has been falsely implicated in this case. On 3rd December 2019 the applicant was on duty between the period from 2 pm in the afternoon till 1200 hours in the night. He relied upon register bearing his signature for attendance on duty of 3rd December 2019.

4. Learned APP submitted that first informant has recorded presence of applicant at the scene of offence. The CDR record shows presence of applicant near the scene of offence through tower location. The statement of bar owner also refers to the presence of applicant near place of offence. The letter was issued by the employer of applicant stating that the duty of the applicant included outdoor duty. It is, therefore, submitted that the ground of alibi is

false. The presence of applicant is established at the place of incident.

5. On perusal of the FIR it can be seen that several persons are named in the FIR. The complainant has stated that call was received by the friend of the complainant from one of the accused that he intends to apologize for the earlier incident. He was told to come at Bhagwat Beer Bar where the complainant and his friends were consuming alcohol. Thereafter several persons including some unknown persons and applicant came outside the beer bar. The associates of complainant were also standing near the bar. There was scuffle between them. Subsequently some of the assailants brought weapons and assaulted the injured persons. The applicant was allegedly present at the scene of offence. He has not been attributed any role of assaulting or instigating other accused. Learned APP has, however, submitted that the son of the applicant had also participated in the crime and he had antecedents. Considering the averments made in the FIR it is difficult to assume that the applicant had shared common intention for assaulting the injured by weapons as the assailants had subsequently brought some weapons during the scuffle and assaulted. Thus, assuming that the applicant was present at the scene of incident, he has not been attributed the role of assault. The applicant was amongst the co-accused and initially scuffle was going on. Subsequently the injured were assaulted by weapons. Considering the aforesaid circumstances the applicant need not be subjected to custodial interrogation. There are no antecedents against him.

6. Hence, I pass following order :

ORDER

- (i) Criminal Anticipatory Bail Application No.103 of 2020 is allowed and disposed of;
- (ii) In the event of arrest of applicant in connection with CR No.124 of 2019 registered with Pimpalgaon Baswant Police Station, the applicant be released on bail on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend the Investigating Officer on 23rd and 24th January 2020 between 11 am and 1 pm and thereafter as and when called till filing of charge sheet.

(PRAKASH D. NAIK, J.)

MST