

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

ANTICIPATORY BAIL APPLICATION NO. 122 OF 2021

Hanumant Bapurao Yele Applicant
Versus
The State of Maharashtra Respondent

Mr. Amit Sale for Applicant. _____
Mrs. J. S. Lohokare, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 22nd JANUARY, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.432 of 2020, registered at Shirur Police Station, on 09/07/2020, under sections 326, 323, 504, 506, 143, 147, 148 and 188 r/w. 149 of the Indian Penal Code (for short 'IPC') and under section 135 of the Maharashtra Police Act. Now the section 307 of IPC is also added.

2. Heard Shri. Amit Sale, learned counsel for the applicant and Smt. Lohokare, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by one Yogesh Yele. He has stated in the F.I.R. that the informant and the applicant were working for different political

parties. On 08/07/2020, at 5 O'clock in the evening, the applicant and the informant went together on a two wheeler for a ride. At that time, the applicant, allegedly, again started telling the informant that he should work for the applicant's party. The informant did not agree and that they came back. At about 8.30p.m. the applicant came in front of his house. He was under influence of liquor. He was abusing the informant. The informant asked him to go home. He went away but he came back again at 10.45p.m. with 9 others. The applicant was having an axe with him. It is alleged that the informant was assaulted in front of his house by all of them. The applicant allegedly gave a blow with the axe but he did not use sharp side of the axe. Because of this blow the informant's nasal bone was broken. The informant's brother Lahu was also assaulted with kicks and fists blows. On this basis the F.I.R. is lodged.

4. The learned counsel for the applicant submitted that the incident as described in the F.I.R. is not true. The applicant himself had lodged his F.I.R. vide C.R.No.431 of 2020 at the same police station on the same day. This F.I.R. is lodged at first in point

of time. In that F.I.R. he has depicted true story. In that incident, the applicant and his brother Janku had suffered serious injuries on the head. The learned counsel for the applicant invited my attention to the medical certificates in respect of injuries suffered by the applicant and his brother. He also relied on the photographs attached in respect of their injuries.

5. The learned APP opposed this application. She submitted that the injury suffered by Yogesh is described as grievous injury, because it was fracture of nasal bone.

6. I have considered these submissions. Undoubtedly, the injury suffered by the informant Yogesh is described as grievous injury because there was fracture of nasal bone, but this has to be seen in the background of injuries suffered by the applicant and his brother. The injury certificate of the applicant's brother shows that, he had suffered injury on his head which was at least 2.5cm. in length requiring stitches. The applicant had also swelling on his head. This shows that the offence under section 307 of I.P.C. was registered against the informant Yogesh in this case by the applicant. There are head injuries caused by an axe on the head of

the applicant and his brother giving rise to serious apprehension of grievous injury or possibly of death. Therefore, this act could have been done by the applicant in exercise of private defence. However, this will have to be established after investigation and during the trial. At this stage, considering the nature of injuries suffered by the applicant and his brother himself compared to the injuries suffered by the informant, the applicant can be protected by an order of anticipatory bail.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.432 of 2020 registered at Shirur Police Station, 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.
- (ii) The applicant shall attend the concerned police station, as and when called and shall co-operate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)