

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

ANTICIPATORY BAIL APPLICATION NO. 319 OF 2021

Mahendra Pundalik Wankhede Applicant

Versus

The State of Maharashtra Respondent

Mr. Rohan H. Barge for Applicant.

Mr. S. H. Yadav, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 24th FEBRUARY, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 107 of 2020 registered with Mahad Police Station, on 11/12/2020, under sections 307, 120B, 143, 147, 148, 149, 353, 332, 427, 452 and 504 of the Indian Penal Code (for short 'IPC'), under Section 3(1) of the Prevention of Damage to Public Property Act, 1984 and under section 7 of the Criminal Law Amendment Act, 1932.

2. Heard Shri. Rohan Barge, learned counsel for the

applicant and Shri. Yadav, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by one Dhanaji Gurav. He has stated that, he was working as a Principal in a college in Mahad. In 2019, one Suresh Athawale and his associates had assaulted him and, therefore, he could not attend his duties. In the meantime, Suresh Athawale had forcibly taken charge of the post of Principal at that college. In February, 2020, the Chairman of the society, which was running the college, directed the informant to take charge of the post of Principal, but the informant could not take charge because of his health. On 08/12/2020, finally he took charge. The subject matter of this F.I.R. is the incident dated 11/12/2020. On that day, one Mahendra Ghare and 5 to 6 unknown persons entered Room No.15 in the college. He gave a blow with iron rod on the informant, but the informant tried to save himself by raising his left hand. The blow landed on his wrist causing bleeding injury. After that, Mahendra Ghare and others assaulted the informant. In the meantime, security guards came there. Therefore, the assailants left the place, but before going, they caused further

damage to the chairs. While going away the assailants also assaulted one Police constable who was present in the college. Thereafter the informant was admitted to the hospital for treatment and then he lodged this F.I.R. It is mentioned in the F.I.R. that the assault was committed at the behest of the present applicant.

4. Learned counsel for the applicant submitted that, admittedly, the applicant was not present at the spot. F.I.R. is lodged because of previous dispute between the informant and the applicant. The applicant is falsely implicated. The applicant, in any way, is not concerned with the alleged offence. He further submitted that, the F.I.R. itself mentions that the main assailant Mahendra Ghare had tried to assault the informant in the past also on three occasions and the applicant had no concern with the alleged assault in the past. The F.I.R. also mentions that, there was a dispute between the informant and Suresh Athawale and, therefore, there are other angles in the incident and the applicant is falsely implicated.

5. Learned APP opposed this application and produced

investigation papers before me. He submitted that, there were many calls exchanged between Mahendra Ghare and the present applicant on the earlier date of incident and in the past. He, therefore, submitted that, there is a possibility of conspiracy between the applicant and Mahendra Ghare.

6. I have considered these submissions. I have perused the injury certificates of the informant Dhanaji Gurav and police constable Gajanan Shinde, who was assaulted.

Dhanaji had suffered following injuries:

i) C.L.W. on left forearm 2cm x 1cm x 0.5cm. dimension. It was a simple injury. ii) abrasion on left index finger 1cm x .05cm. dimension. It was also a simple injury. iii) Contusion on left thigh above knee of 3cm. length. It was also a simple injury.

All the injuries were caused by hard and blunt object as per the medical certificate.

Injured Gajanan Shinde had suffered one contusion of 10cm x 2cm. dimension. It was a simple injury.

7. Thus, it appears that the injuries were not serious and, therefore, section 307 of IPC may not be attracted in this particular

case. However, this will have to be decided during the trial and the intention of the assailants will have to be tested. At this stage, what is significant, is the fact, that the applicant, admittedly, was not present when the incident had occurred. The allegations against the present applicant remained within realm of suspicion expressed in the F.I.R. Though the investigation shows that there were telephonic talks between the applicant and main accused Mahendra Ghare in the past, that by itself may not indicate hatching of conspiracy to commit this particular offence. On this weak piece of evidence, custodial interrogation of the applicant is not necessary. Instead, he can be directed to co-operate with the investigation.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 107 of 2020 registered with Mahad Police Station, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- (ii) The Applicant shall attend the concerned Police Station on 04/03/2021, 05/03/2021 and 06/03/2021 between 1:00 p.m. to 5:00 p.m. and shall cooperate with the investigation. In addition, 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.)