

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

ANTICIPATORY BAIL APPLICATION NO. 364 OF 2021

Mrs. Asha Baban Rakshe

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Shailesh Kharat for Applicant.

Mrs. J. S. Lohokare, APP for State/Respondent.

Mr. S. M. Nikam, API, Vishrantwadi Police Station, Pune present.

CORAM : SARANG V. KOTWAL, J.

DATE : 12th FEBRUARY, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.804 of 2020 registered with Vishrantwadi Police Station, Pune city, under sections 307, 323, 504 r/w. 34 of the Indian Penal Code (for short 'IPC') and under section 37(1)135 of The Maharashtra Police Act.

2. Heard Shri. Shailesh Kharat, 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 Pankaj Sharma. He has stated that, he was having a handcart. He was selling Panipuri. Next to his handcart there was a Vada Pav stall. It was run by the present applicant. There was one more vendor named Pushpa. She was having her Dosa and Vada Pav stall on a handcart. In the past, there was a quarrel between the applicant and Pushpa regarding their business. That time, the informant had taken Pushpa's side. He had left Pune during the lockdown and then he came back about 4 days prior to registering his F.I.R. He has mentioned in his F.I.R. that, on 29/12/2020, in the evening, he was working on the food stall of Pushpa. At that time, the applicant saw him and she got angry. She told him to leave that job and that place. She abused him. Therefore, Pushpa proceeded to lodge a complaint against her. At that time, the applicant called her son Raj and her helper Pavya. She instigated Raj and Pavya to kill the informant. At that time, Pavya assaulted the informant with a bamboo and Raj assaulted him with sickle. He was assaulted brutally. He was running to save himself. Raj followed him and gave a blow with sickle on his right thigh. On these allegations the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the applicant is a lady and, therefore, she should be protected by an order of anticipatory bail. He submitted that, main accused Raj and Pavya were present right at the spot and, therefore, the allegation that the applicant called and instigated them are false. The applicant has not caused any assault.

5. Learned APP opposed this application and relied on the injury certificate of the informant.

6. I have considered these submissions. The informant had suffered 9 injuries. Out of them, 3 injuries are described as grievous injuries. There was a fracture of his humerus bone caused by sickle. There were two incised wounds on his left hand causing serious damage to the palm and fingers. In addition, there were injuries on his head. Thus, it can be seen that the assault was brutal. The first informant was chased and assaulted. All this was done at the behest of the present applicant. The F.I.R. clearly mentions that, she had called Raj and Pavya and had instigated them to mount assault on the informant. The motive is also attributed to the present applicant. Therefore, section 34 of the

IPC is clearly applicable in this case. Considering the brutal nature of assault mounted on the informant and the nature of injuries suffered by him, no case for protection of anticipatory bail is made out.

7. The application is rejected.

(SARANG V. KOTWAL, J.)