

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

911 ANTICIPATORY BAIL APPLICATION NO.493 OF 2022

**SHAHNAWAJ SIKANDAR KHAN
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant: Mr. Narayan B. Narwade
APP for Respondent: Mr. V. S. Badakh

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CORAM: SARANG V. KOTWAL, J.

DATE: 09th JUNE, 2022

PER COURT:

1. The applicant is seeking anticipatory bail in connection with C.R. No.I-338/2016 registered at Kotwali Police Station, District – Ahmednagar on 14.10.2016 under Section 307, 326, 323, 143, 147, 148, 149, 120-B, 504, 506 of Indian Penal Code, 1860 and under Section 4/25 of the Indian Arms Act and under Section 37(1)(3) read with Section 135 of the Maharashtra Police Act.

2. Heard Mr. Narayan B. Narwade, learned Counsel for the applicant and Mr. V. S. Badakh, learned APP for the Respondent – State.

3. The F.I.R. is lodged by one Mahesh Bodkhe. He has stated that on 13.10.2016 at about 01:00 PM he himself along with his friend Aakash Nistane, Ajay Bodkhe, Aakash Supekar were walking in Asha Takies Chowk. At that time one Shabir Shaikh approached them. He questioned Aakash Nistane about his post on a social networking site. Aakash Nistane was taken at a little distance. Shabir Shaikh was joined by 14 others and they started assaulting him. The present applicant's name is mentioned amongst this 14 persons. It is further mentioned in the F.I.R. that Furkhan Shaikh and Momin Shaikh were having sword, Moin Sharbatwala and Mayun Shaikh, Dastgire Chaiwala were having wooden sticks. They assaulted Aakash Nistane at various places on his person. Ajay Bodkhe tried to save Aakash Nistane but he was also assaulted by the above mentioned persons and on this basis the F.I.R. is lodged.

4. Learned Counsel for the applicant submitted that the incident is very old, the charge-sheet is already filed. The applicant was

not even aware about pending investigation and suddenly, now, the police wants to arrest him. He, submitted that there is no specific overt act attributed to the applicant. The injuries mentioned in the Injury Certificate issued by the Government Hospital described the injuries as simple injuries. Though, later on, the injury certificate issued by a private hospital shows one of the injured i.e. Aakash Nistane had suffered a grievous injury. He submitted that on the basis of these vague and general allegations after so many years the applicant's custody is not necessary.

5. Learned APP opposed this application. He submitted that the applicant could not be arrested since he was absconding. The injured were assaulted with weapons. Therefore, the applicant's custodial interrogation is necessary.

6. I have considered these submissions and with the assistance of the learned Counsel and the learned APP, I have perused the charge-sheet. Apart from the statement of the informant, the

statements of Aakash Nistane and Ajay Bodkhe who were the injured in this case are also recorded. Their story is similar to the First Information Report. I have also perused the Injury Certificates. As rightly submitted by the learned Counsel for the applicant, the Injury Certificate was issued by the Government Hospital describing all the injuries suffered by both the injured as simple injuries. Moreover, no weapon is attributed to the applicant and no overt act is also attributed. Therefore, whether he was part of the unlawful assembly or not is a debatable issue to be decided in Trial. Considering that the incident had occurred almost 6 years ago; at this stage, on the basis of this weak material; custodial interrogation of the applicant is not necessary. The applicant can be released on anticipatory bail with certain conditions. Hence, the following order-

ORDER

[I] In the event of his arrest in connection with C.R. No.I-338/2016 registered

at Kotwali Police Station, District – Ahmednagar, the applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.25,000/- (Rs. 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 cooperate with the investigation.

[III] The applicant shall attend all the dates in the Court diligently and shall cooperate in expeditious disposal of the trial.

[IV] Application stands disposed of accordingly.

[SARANG V. KOTWAL, J.]

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