

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

ANTICIPATORY BAIL APPLICATION NO.679 OF 2022

Abbu @ Simran Khan s/o Yarmohammad
Khan Pathan ...Applicant

VERSUS

The State of Maharashtra and Another ...Respondents

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Mr. Bhargav V. Kulkarni h/f Mr. Sant Kishor Chandrakant, Advocate for the applicant.
Mr. V.M. Kagne, APP for the respondent-State.

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CORAM : S.G. MEHARE, J.

DATED : 20th JUNE, 2022.

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The record does not reveal the corresponding injury as alleged in the FIR that the present applicant has hit a punch on the face of the injured. Since there were no injuries on the face of the injured, learned counsel for the applicant has vehemently argued that the allegations of hitting with a punch are false. He also pointed out that the weapon i.e. knife and sickle allegedly used in the crime, is already seized, and other co-accused have been released on bail. No purpose will be served if the present applicant is taken into police custody. Hence, he may be released on bail.

3. Per contra, the learned APP would submit that the applicant is instrumental in the incident. He had called two more accused. Though the corresponding injury is not seen, the applicant has played an active role. Therefore, his custodial interrogation is required. Hence, the application deserved to be rejected.

4. The FIR reveals that the incident happened when the injured had tried to intervene in the dispute between the accused and others. A person who tries to separate the dispute is normally seen getting assaulted. Here also, the injured is the same person who was trying to separate the quarrel. The Court has sympathy with such persons but cannot travel beyond the facts of the case and laws settled as regards granting bail. Prima facie, there appears substance in the argument advanced by the learned counsel for the applicant that false allegations have been made against the applicant that he hit the injured with an iron punch. His arguments are supported by the injury reports, which do not reveal any injury caused by a weapon like an iron punch on the face of the injured. Even if it is considered that the offence is serious and the applicant is instrumental, the prosecution absolutely has no material to make out the case for custodial interrogation. Hence, the application deserves to be allowed. Therefore, the following order :

ORDER

(A) The Application is allowed.

(3)

(B) In the event of arrest of the applicant, namely Abbu @ Simran Khan s/o Yarmohammad Khan Pathan in connection with Crime No.46/2022 registered with Udgir Rural Police Station, Udgir, District Latur for offences punishable under Sections 307, 324, 323, 504, 109 r/w 34 of the Indian Penal Code, be released on bail, on furnishing P.B. and S.B. of Rs.25,000/- (Twenty Five Thousand) with one or two solvent sureties in the like amount, on the condition that he shall attend the police station on each Thursday and Monday from 23.06.2022 till 11.07.2022 between 11.00 am to 01.00 pm and co-operate the Investigation Officer.

(C) He shall not tamper with the prosecution witness.

(D) Hamdast allowed.

(S.G. MEHARE, J.)