

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

ANTICIPATORY BAIL APPLICATION NO.1610 OF 2021

Shubham Shashikant Salunkhe @ Soyankhe ..Applicant

VERSUS

The State of Maharashtra ..Respondent

...
Advocate for Applicant : Mr.Mukulanand R. Wagh
APP for Respondent : Mrs.V.N.Patil - Jadhav
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE OF RESERVING ORDER : 7th April, 2022

DATE OF PRONOUNCING ORDER : 4th May, 2022

ORDER :-

1. The applicant is apprehending his arrest in connection with Crime No.0111 of 2018 registered with Bhusawal City Police Station, District Jalgaon, for the offence punishable under Sections 307, 452, 354, 436, 143, 144, 147, 148, 149, 427, 323, 504, 506 read with Section 34 of the Indian Penal Code.
2. Heard Mr.M.R.Wagh, learned Advocate for the applicant and Mrs.V.N.Patil – Jadhav, learned APP for the respondent.

3. It has been vehemently submitted on behalf of the applicant that the applicant has been falsely implicated. If we peruse the contents of the FIR, it is alleged that 16 named persons (including the name of the present applicant) alongwith around 40-50 persons had gathered at the spot and assaulted the informant and others by fists and kick blows. One Samadhan @ Gorya had assaulted the informant by wooden stick on his head and it is stated that one Narendra @ Bala More, present applicant and one Sahila Balu Tayade had put the mattress in the house of the informant to fire causing the fire to be spread to the surrounding items and then it is stated that the intention of these persons was to kill the informant and the family members. It appears that the oral statements are not supported by the medical evidence. The similarly situated accused persons have been either released on anticipatory bail or on regular bail and therefore, the present applicant deserves to be released on bail.

4. The learned APP strongly opposed the application and submitted that the present applicant was absconding and therefore, it is necessary to collect information that who had harboured the applicant. Since the applicant had absconded, he does not deserve the discretionary relief. The offence that has been committed by the applicant is very serious and amounted

to cause rift in two sections of people. Possibility of similar crime after his release cannot be ruled out and therefore, the application should be rejected.

5. First Information Report (FIR) has been lodged by one Devidas @ Chotu Karanju Mattu on 10th December, 2018 in respect of incident that has allegedly taken place at 10:00 p.m. to 10:30 p.m. on 9th December, 2018. It is the case of the prosecution that when the informant and his family members were sleeping on 9th December, 2018, at about 10:00 p.m. to 10:30 p.m., he heard loud sound of knocking of the door from outside. All the family members woke up and saw that the door was broken. There were 40 to 50 persons, who were shouting that the informant and his family members should be beaten. Accused Narendra @ Bala Arun More, Samadhan @ Morya Nikam, Shubham Shashikant Soyankar (applicant), Sandip Madhukar Sapkale, Ganesh Ashok Sapkale, Rekha Vijay Kharat, Bala @ Vijay Sarang Pawar, Balu Tayade, Sahil Balu Tayade, Vishal Prabhakar Sapkale, Munna Walmik Sonwane, Vishal Ramesh Awasarmal, Akash Ramdas Thivare, Yogesh Devidas Tayade, Vikrant Suresh Gaighole and Rinkya Walis Sapkale were present at the spot. All of them started beating the family members of informant by fists and kick blows. Co-accused Samadhan @ Gorya has assaulted

informant on the forehead by means of wooden log. As regards the present applicant is concerned, it is specifically stated that he alongwith co-accused Narendra and Sahila had put the mattress and other articles in the house of the informant to fire and according to the informant it was the intention of these persons to kill the informant and his family members.

6. Co-accused Narendra @ Bala Arun More, Balu Tukaram Tayde, Adarsh Balu Tayade and Swapnil Balu Tayde have been released on bail by the learned Additional Sessions Judge under Sections 439 of the Code of Criminal Procedure. Co-accused Sandip Madhukar Sapkale, Vishal prabhakar Sapkale and Ganesh Ashok Sapkale have been released on anticipatory bail by this Court on 30th August, 2021. Police papers show that accused Narendra came to be arrested, however, accused Sahila has not been arrested, who were the similarly situated persons against whom similar kind of allegations have been levelled. It further shows that the statements of witnesses have been recorded who are specially the family members of the informant. They are stating as per the FIR. The injury certificates of the family members show that they had sustained simple injuries and even the informant had also sustained simple injury. In respect of all the injuries it has stated that those were possible by hard and

blunt object. Now, as regards putting articles to fire is concerned, what we could get is the spot panchanama and it reveals that there was extensive damage because of the fire. The spot panchanama shows that front door was broken and had burn marks. The room was 12 feet x 16 feet in which there was a T.V. and a Cooler which were found to be burnt. The clothes from iron trunk were also burned. Thereafter, there was another room which was used as kitchen. At that place also Fridge and other articles were damaged and there were having burn marks. In another room, there were two cupboards sustaining the burn marks. Sofa, Computer etc. had also sustained damage due to fire, however, in this spot panchanama, no mention has been made as regards the burn marks on the walls. Therefore, the possibility that the articles were brought in between and then put to fire cannot be ruled out. None of the members of the family of the informant as well as informant appears to have sustained the burn injuries. Under such circumstance, whether the present applicant alongwith co-accused had the intention to kill the informant and/or the family members would now be the matter of evidence. It would take long time to stand the trial and also the fact cannot be lost sight of that many persons have not been arrested at all though they were named in the FIR and therefore, the applicant deserves protection making him available for the

purpose of investigation would suffice. Hence, the following order is passed :-

ORDER

- i) Anticipatory Bail Application is hereby allowed.
- ii) In the event of arrest of the applicant - Shubham Shashikant Salunkhe @ Soyankhe, in connection with Crime No.0111 of 2018, registered with Bhusawal City Police Station, Dist.Jalgaon, for the offence punishable under Sections 307, 452, 354, 436, 143, 144, 147, 148, 149, 427, 323, 504, 506 read with Section 34 of the Indian Penal Code, he be released on P.R.Bond of Rs.30,000/- (Rs. Thirty Thousand only) with two solvent sureties of Rs.15,000/- (Rs. Fifteen Thousand only) each.
- iii) The applicant shall not tamper with the evidence of prosecution in any manner.
- iv) The applicant shall attend the concerned Police Station on every Monday, Wednesday and Friday in between 10:00 a.m. to 02:00 p.m. till filing of the charge-sheet.

**(SMT. VIBHA KANKANWADI)
JUDGE**

SPT