

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

ANTICIPATORY BAIL APPLICATION NO. 294 OF 2022

Ramchandra Kacharu Gaikwad ..Applicant

V/s.

The State of Maharashtra ..Respondent

Ms. Anima Mishra i/b Hulyalkar and Asso. for the Applicant.

Mr. R.M.Pethe, APP for the Respondent/State.

API Santosh Tanawade attached Vanwadi Police Station present.

CORAM : C.V. BHADANG, J.

DATE : 14 FEBRUARY 2022

P.C.

1. The Applicant, apprehending his arrest, in connection with the investigation of Crime No.335 of 2021 registered with Vanwadi Police Station, Dist. Pune under Section 307, 452, 323, 506 of I.P.C. and Section 37(1), (3) read with Section 135 of the Maharashtra Police Act, is seeking pre-arrest bail.

2. I have heard the learned counsel for the Applicant and the learned APP. Perused record.

3. It is submitted by the learned counsel for the Applicant that the only role attributed to the Applicant is, that he took out the weapon and handed it to the co-accused. It is submitted that

there are no allegations of any overt act attributing direct assault by the present Applicant. Secondly, it is submitted that the injured has suffered injury only on leg and prima facie the offence under Section 307 is not made out. The learned counsel for the Applicant submitted that this Court by an order dated 30.11.2021 in ABA No. 2853 of 2021 has granted interim protection to the co-accused Sampat Isave. However, it is not disputed that the said application is pending.

4. The learned APP has submitted that the prosecution has invoked Section 34 of IPC and therefore, there is a common intention for which the Applicant would also be responsible.

5. I have considered the submissions made. Prima facie it appears that there are no allegations of a direct assault by the Applicant on the injured. That apart a perusal of the injury report at page 146 which is pointed out by the learned APP, also shows an injury on the leg. It is in this regard that the submission made on behalf of the Applicant on the non-applicability of the Section 307 of IPC has to be considered.

6. Considering the over all circumstances, the following order is passed:

ORDER

i) In the event of his arrest, in connection with the investigation of Crime No.335 of 2021 registered with Vanwadi

Police Station, Dist. Pune, the Applicant shall be released on bail on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

ii) The applicant shall report to the Investigating Officer on 21, 22 and 23 February 2022 between 11.00 a.m. to 1.00 p.m. and as and when required by the Investigating Officer.

iii) The applicant shall co-operate with the Investigating Agency and shall not tamper with the prosecution evidence/witnesses.

iv) Criminal application is disposed of in the aforesaid terms.

(C.V. BHADANG, J.)