

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

ANTICIPATORY BAIL APPLICATION NO. 1020 OF 2022

Sudhir Sambhaji Shitole

.. Applicant

Versus

The State of Maharashtra

.. Respondent

WITH

INTERIM APPLICATION NO. 7406 OF 2022

IN

ANTICIPATORY BAIL APPLICATION NO. 1020 OF 2022

Dadasaheb Ananta Dhumal

.. Applicant
Intervenor

In the matter between:

Sudhir Sambhaji Shitole

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Ms. Vilasini Balsubramanian i/b Mr. Jaydeep D. Mane, Advocate for the Applicant.

Mr. A. A. Palkar, APP for the Respondent-State.
Mr. Ashok M. Misal, Advocate for the Intervenor.

CORAM : VINAY JOSHI, J.

DATE : 04th MAY, 2022.

P.C.:

. In anticipation of arrest in Crime No. 153 of 2022, registered with Mohol Police Station, District Solapur, for the offence punishable under

Sections 307, 504 and 506 of the Indian Penal Code, the applicant is praying for pre-arrest protection.

2. Besides other grounds, it is argued that the reason for alleged assault is totally false. Moreover, it is contended that at the time of occurrence, the Informant was not present on the spot, which is evident from the CDR. The State opposed the bail by contending that Medico Legal Certificate strongly corroborates the applicant's version. Inasmuch as there is a eye witness to the occurrence. Having regard to the seriousness of the offence, bail is prayed to be rejected.

3. At the instance of report lodged by Informant Dadasaheb Dhumal, the crime came to be registered. It is the prosecution case that the Informant has purchased a piece of land from accused in the year 2019 in total consideration of Rs.20,00,000/-. Out of said consideration amount, Rs.5,00,000/- were remained unpaid. On 23rd February, 2022, the Informant went to the house of the applicant (accused) alongwith his friend Sarjerao demanding unpaid amount. At that time, the applicant has abruptly assaulted the Informant at his back and head by means of sattur. The Informant sustained injuries of grave nature, therefore, the report.

4. The applicant's learned Counsel has produced a copy of sale deed dated 23rd July, 2019 to impress that total sale consideration was of Rs.6,25,000/-, therefore, it is improbable that at relevant time, the informant had gone for demanding unpaid amount of Rs.5,00,000/-, out of total consideration of Rs.20,00,000/-. True the sale deed appears to be for

Rs.6,25,000/- only, but on that sole basis, the Informant's statement regarding bodily assault coupled with medical evidence cannot be discarded. One may not know as to what was the reason for the Informant to visit the applicant's house perhaps the paper transaction may be something else. To the next, the applicant's learned Counsel has submitted that CDR of the Informant discloses that on the date of incident around 7:30 p.m. he was at Kurduwadi, which is 70 km away from the occurrence. In other words, it is submitted that since at relevant time, the Informant was not present at the place of occurrence i.e. at village Yevati, the incident as stated is improbable. At this preliminary stage, it cannot be said that the concerned mobile handset was carried by the Informant at relevant time. Secondly, the location of the mobile in Kurduwadi Taluka may have proximity with the place of occurrence, which is matter to be investigated.

5. Coming to the facts, the Informant stated that on the date of incident around 08:00 p.m., he was assaulted by the applicant by means of deadly weapon namely sattur. Pertinent to note that investigation paper contains Medico Legal Certificate issued by rural hospital Taluka Mohol, District Solapur. It reveals that on that day within two hours i.e. at 9:35 p.m., the injured Informant took treatment with rural hospital. Certificate shows that the Informant sustained CLW at left side of the head as well as another CLW at his back. Both injuries were caused by sharp aged weapon. The said certificate squarely supports the Informant's case that the applicant assaulted at his head as well as back by sattur. Inasmuch as police have recorded statement of eye witness Sarjerao, who equally stated about assault by the applicant.

6. The police have invoked the provision of Section 307 of the Indian Penal Code. Since hurt is caused, the punishment may extend to the imprisonment for life. It reveals that the applicant has used deadly weapon namely sattur by which assaulted at the head of the Informant which is vital part. The offence is of serious nature. *Prima facie* there is ample material against the applicant about his grave role. In the circumstances, there is need of custodial interrogation. In view of that, the applicant does not deserves for pre-arrest protection, hence, the application stands rejected.

7. The interim application also stands disposed of.

(VINAY JOSHI, J.)