

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2006 OF 2022

Babasaheb Dattatray Lokhande,
Age 33 years, Occ.Business,
R/o.S.No.570, Lane no.5,
ambedkar Nagar, Marketyard,
Near Sai Baba Mandir, Pune-411 037.

Applicant

versus

The State of Maharashtra

Respondent

WITH
INTERIM APPLICATION NO.2575 OF 2022

Amit Bapu Sarvade

Applicant

In the matter between :
Babasaheb Dattatray Lokhande
versus
The State of Maharashtra

Applicant

Respondent

Mr.Debajyoti Talukdar, Advocate for applicant in ABA.
Ms.Saili Dhuru, Advocate for applicant in IA.
Mr.A.A.Palkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 17th October 2022

PC :

1. The applicant is seeking pre-arrest bail in C.R No.29 of 2022 registered with Marketyard Police Station for offences under Sections 307, 141, 143, 147, 149, 504 of Indian Penal Code.
2. Applicant preferred application for anticipatory bail before Sessions Court which has been rejected by order dated 5th July 2022.

3. Complainant has alleged that on 6th March 2022 there was a quarrel with Baba Gaikwad. Thereafter complainant left home at about 11.00 p.m. Baba Gaikwad and Aakash Vanjare called the complainant at Marketyard for resolving the dispute. Complainant and his friends Arbaz Bagwan and Sunny Chaudhary went to Marketyard. While discussion was going on between them, Aakash Vanjare removed iron rod and gave a blow on the back of complainant. Nikhil Vanjare came there with sickle. Baba Lokhande and Baba Gaikwad were armed with sickle. Sunny Parde was armed with hockey stick and Ganesh Bhumbe was holding sickle. Akshay Bade was having iron rod. Vicky Vanjare gave blow with sickle above left eye of complainant. Baba Gaikwad threatened him and gave a blow of sickle on his head. Baba Lokhande tried to give a blow on the head of complainant with an intent to kill him by sickle, which was thwarted by complainant with his hand causing serious injury to his hand. Complainant's friend Arbaz Bagwan and Sunny Chaudhary tried to intervene. Sunny Parde assaulted the complainant with hockey stick. Ganesh Bhumbe gave blow by sickle. Akshay Bade assaulted the complainant with iron rod. He also assaulted Arbaz Bagwan. Some residents came to help the complainant. They were chased by accused. The assailants then ran away from the spot. The complainant was admitted to hospital. His statement was recorded in the hospital.

4. Learned advocate for applicant submitted that applicant has been falsely implicated in this case. Cross case was registered against complainant vide C.R No.33 of 2022 on 11th March 2022 for offences under Sections 354A, 354, 324, 323, 504 of IPC at the instance of Mira Aakash Vanjare. Co-accused Sunny @ Yogesh Parde

has been granted interim relief by this Court. Applicant has been implicated on account of political rivalry. The applicant was not present at the time of incident. He was at Fire and Ice Restaurant. This could be verified from CCTV footage. The complainant filed affidavit and stated that applicant was not present at the place of incident.

5. Learned APP submitted that offence is serious. Specific role of assault has been attributed to the applicant. The applicant was armed with weapon. Statements of other eye witnesses have attributed role of assault to the applicant. Injury certificate of complainant refers to several injuries suffered by him. Arbaz Bagwan and Sunny Chaudhary had also suffered injuries. The ground of alibi cannot be considered at this stage. The affidavit of complainant is after thought.

6. Apart from the statement of complainant, the statements of Sunny Chaudhary and Arbaz Bagwan who are the eye witnesses to the incident were recorded. Specific overt act of participation in the incident has been attributed to the applicant by the witnesses. Their version is in consonance with the FIR. All the accused were armed with dangerous weapons. The complainant had suffered several injuries. Among them 4 were grievous injuries. Bagwan Arbaz Hussain had suffered CLW on left mid shaft and Sunny Chaudhary had suffered abrasion on right proximal humerus. The defense of alibi cannot be accepted at this stage. The affidavit of complainant is contrary to his statement and statement of two other injured eye witnesses and hence his contention cannot be considered. The offence is registered u/s.307 of IPC. The applicant was armed with

weapon. Specific role has been attributed to him. Learned Sessions Judge while rejecting the application has observed that it appears that the applicant is history sheeter and there are as many as 6 to 7 offences registered against him. Learned counsel for applicant, however, submitted that said cases are resulted in acquittal.

7. Considering the involvement of applicant, no case is made out for granting anticipatory bail.

ORDER

(i) Criminal Anticipatory Bail Application No.2006 of 2022 is rejected and disposed off;

(ii) Interim Application No.2575 of 2022 is disposed off.

(PRAKASH D. NAIK, J.)

MST