

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2053 OF 2022

Mohammad Hammad Mohammad .. Applicant
Moinuddin Jumman Shaikh

Versus

The State of Maharashtra .. Respondent

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Ms.Pooja Pandey with Mr.Rajneesh Dubey i/b Legal Vision for the Applicant.

Mr.S.H.Yadav, A.P.P. for the State/Respondent.

API K.K.Tambe, attached to Mumbra Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 04th AUGUST, 2022

P.C:-

1. The applicant is apprehending arrest in C.R.No.572 of 2021 registered with Mumbra Police Station, Thane, which invokes Sections 307, 504 read with Section 34 of the IPC.

2. It is informed that the charge-sheet has been filed against accused No.1-Jafar Dadhi. As per the prosecution, the applicant was absconding. Today, the learned A.P.P. states that

he is unable to make a statement about non arrest of the applicant, since the Investigating Officer has been changed. In any case, the answer of the prosecution is, the applicant was absconding, whereas the counsel for the applicant submits that he was very much present on the address given and only when the charge-sheet was filed against other co-accused, he became aware that he is also arraigned as an accused.

3. The subject C.R. came to be registered on complaint of one Farookh Farid Shaikh, who reported about the incident dated 13/06/2021 where he alleged that at around 1.30 p.m., when he was fixing tin sheets on his house, accused No.1 alongwith Ammar Moinuddin Shaikh (present applicant) and two other persons came on the spot. All of them were alleged to have been armed with knives and it is alleged that Shadab Shaikh was asked by accused No.1 to give possession of both the rooms to him, but when the room owner Shadab denied, accused No.1 is alleged to have stated that he should be finished. As per the narration of the complainant, Jafar, Ammar and other two associates assaulted Shadab by means of knives on his head and other parts of body. When his brother, Shahnawaj intervened, it is alleged that he was also assaulted on his face, head by means of knife. The

complainant, who intervened, is also alleged to have been assaulted by means of a knife, which resulted in serious injuries.

4. As against the statement of the complainant, when the statements of the injured persons i.e. Shadab and Shahnawaj, recorded on 14/06/2021, are perused, the role attributed to the applicant is, he assaulted Shadab by means of a wooden block in his head, causing injury to him. Shahnawaj alleged that the present applicant assaulted him on his nose by means of an iron punch, causing injuries to him. Further, the applicant is also accused of assaulting Farookh by wooden block. The inconsistency in the version of the witnesses is apparent and, ultimately, it's effect will have to be determined at the time of trial.

5. As far as the injuries are concerned, the complainant has sustained one incised wound on right occipital region, which is described as simple injury. Other injuries sustained by him are also simple in nature. As far as Shadab is concerned, he has also sustained three injuries in form of incised wounds on right parieto occipital region, left frontal region and right arm posterior aspect. All the injuries are classified as simple injuries. Shahnawaj also sustained simple injuries in form of

incised wounds.

6. The role of the applicant is clearly surfacing in the charge-sheet, filed against the co-accused and, since, the C.R. is registered in the year 2021 and when the investigation is complete and the charge-sheet has been filed, custodial interrogation of the applicant is not warranted. However, he shall co-operate in the investigation by reporting to the police station.

: ORDER :

- (a) Application is allowed.
- (b) In the event of arrest in connection with C.R.No.572 of 2021 registered with Mumbra Police Station, Thane, applicant-Mohammad Hammad Mohammad Moinuddin Jumman Shaikh shall be released on bail on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant shall participate in the investigation by reporting to the concerned police station on 5th and 6th August, 2022 between 3.00 p.m. to 5.00 p.m. and, thereafter, as and when called for.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person

acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.

(SMT. BHARATI DANGRE, J.)