

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2088 of 2022**

Bhaginath Laxman Joshi .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr. Shantanu Phanse i/b Nilesh Navale for the applicant.
Mrs. Anamika Malhotra, APP for the State.
API Shri A.N. Salunke from Padgha police station.

**CORAM: BHARATI DANGRE, J.
DATED : 2nd AUGUST 2022**

P.C:-

1 The applicant apprehend his arrest in C.R.No. 154/2022 registered with Padgha police station on a complaint lodged by one Mukesh Pardhi.

The said C.R invoke Sections 324, 504, 506 read with Section 34 IPC and Sections 326 and 307 came to be inserted after the supplementary statement of one of the injured Sachin was recorded.

2 The complainant reported about an incident dated 14/5/2022 which took place at 4.30 p.m, when it is alleged that the present applicant along with his two sons arrived at the spot

and started abusing the Engineer Shubham Chaudhary and Amit Singh and when the cause was sought to be ascertained, they are alleged to have stated that the land belongs to the cousin brother Sachin Pardhi and the complainant should not intervene. Sachin was therefore, summoned on the spot and he was also abused. As per the version of the complainant, Jitesh and Jayesh, sons of Bhaginath (applicant) arrived at the spot with iron rods and they started assaulting Sachin. When the complainant attempted to intervene, it is alleged that Jitesh assaulted him in his head and Jayesh gave blow to Sachin on his right hand and on his left leg. As far as the present applicant Bhaginath is concerned, as per the version of the complainant, he bite Sachin on his left hand.

3 As against this version, Bhaginath himself approached the police station and lodged a report vide C.R.No. 155/2022, which invoke Sections 323, 324, 326, 143, 144, 147, 148, 149, 504, 506 IPC, and six persons are arraigned as accused which include the complainant Rupesh Pardhi himself. The present applicant Bhaginath was also hospitalized in ICU and his statement came to be recorded on 15/5/2022.

4 The injury certificate of Sachin refer to one grievous injury in form of fracture of second metacarpal bone on right hand and which was described as 'grievous' injury. The other injuries sustained by Sachin are in form of an abrasion on right hand and blunt trauma on face, head and left leg which are described as 'simple' injuries. There is also a reference to a human

bite on left hand which is attributed to the present applicant.

The learned APP has relied upon supplementary statement of Sachin recorded on 17/5/2022, where he has stated that the applicant hit him by a rod and the blow landed on his right hand and Jayesh and Jitesh are alleged to have assaulted him on his legs by means of a rod which they were holding. In the supplementary statement, Sachin state that Bhaginath had beaten him two times on his left hand with the injury sustained by Sachin and the injury certificate issued by the Lifeline Multispeciality Hospital. It is not understood on what basis Section 307 has been invoked.

There is inconsistency in the version of the complainant and Sachin whose supplementary statement is recorded after two days.

5 As far as the applicant is concerned, his injury report placed on record, refer to the following injuries

- (1) CLW on frontal region (sutured outside) around 4 c.m
- (2) CLW below left eye (sutured outside)
- (3) Fracture base of 2nd metacarple base.
- (4) Comminuted displaced and depressed fracture of left
- (5) Lamina papyracea with left Ethmoid Hemosinus and herniation of intra orbital extacontal fat in left ethmoid air cells.

6 The two cross FIR give different versions and the applicant himself has sustained serious injuries which resulted in invocation of Section 326 in the C.R lodged by him and with the role attributed to the applicant in the complainant, and on noticing the improved versions by the injured Sachin, in his supplementary statement recorded after two days, the applicant deserve protection from arrest, considering his role clearly surfacing on record which do not warrant custodial interrogation.

 The learned APP insist on recording that one N.C has been lodged against the present applicant after the incident. Further, she would also rely upon the antecedents attributed to the applicant which largely involve of N.C. cases and are stale cases of the year 1996. The same cannot deprive the applicant of his liberty considering the role attributed to him in the present C.R. Hence, the following order :-

ORDER

- (a) In the event of his arrest, the Applicant – Bhaginath Laxman Joshi in connection of C.R.No.154/2022 registered with Padgha police station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) 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 should not tamper with evidence.

- (c) The Applicant shall report to the police station on 3rd, 4th, and 5th between 10 am to 12 noon and thereafter as and required by the Investigating Officer.

The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)