

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2440 OF 2022**

Kumar Pradip Patil

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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Ms.Snehalata Kolte i/b Ms.Sushama Mishra for the Applicant.

Ms.A.A.Takalkar, A.P.P. for the State/Respondent.

PI G.J.Valavi attached to Bhiwandi City Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 14th SEPTEMBER, 2022

P.C:-

1. The applicant is charge-sheeted for the offences punishable under Sections 307, 323, 324, 326, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and Sections 37(1) and 135 of the Maharashtra Police Act in C.R.No.101 of 2018, registered with Bhiwandi City Police Station.

On completion of investigation, the charge-sheet has been filed and the applicant is shown as an absconding.

2. With the assistance of the learned counsel for the applicant and the learned A.P.P., I have perused the charge-sheet on record.

The subject C.R. came to be registered on a complaint filed by one Alankar Mukadam, who reported to the police station on 07/04/2018 and narrated the incident dated 06/04/2018. He stated that he alongwith his two friends had gone for dinner and while enroute to their house, 10 to 12 persons stepped out of a black colour Innova, out of which, three persons have been named and others are stated to be unknown. According to the informant, in order to revenge the incident dated 01/04/201, co-accused Nikhil and Yatin abused Haresh and assaulted him. When one of the friend, Jagdish attempted to intervene, it is alleged that Yatin assaulted him by a beer bottle. When Haresh ran inside the Dhaba to protect himself, it is alleged that Vishal and Yatin followed him and assaulted him by a wooden log.

3. In the supplementary statement, the complainant has included the name of the applicant as one of the person, who descended from the Innova car, but even in the supplementary statement, he has assigned a general role to the present applicant that they mounted assault by wooden stick, plastic chairs.

4. During the course of investigation, the statement of Haresh is also recorded on 20/04/2018, who has stated that, on 01/04/2018, a quarrel had ensued with the accused persons on account of smoking. He corroborated the complainant in his version about the incident of 06/04/2018, but he named the present applicant as one of the person, who stepped out of the Innova car. On careful reading of his statement, he do not attribute any assault to him. Thus, from this witness, the presence of the applicant on the spot is only reaffirmed.

5. When the learned A.P.P. is asked as to why the present applicant is shown as absconding since 2018, she is unable to provide any satisfactory response. The charge-sheet record that frantic search was made by the police to arrest the applicant, but he could not be found .

Learned A.P.P. states that the charge-sheet has also compiled the CCTV footage, but there is no panchnama.

6. The injury certificate of Haresh refers to two stab injuries, contusion and fracture. Considering the material in the charge-sheet, since no specific role is attributed to the applicant by the complainant and all the named persons alongwith 6 to 7 unknown persons are alleged to have assaulted by means of wooden log and plastic chair and according to Haresh, one unknown person assaulted him on his head by means of an iron rod, *prima facie*, the applicant cannot be said to be the author of the injuries mentioned in the injury certificate.

7. In any case, after lapse of almost four years, after the date of incident, when the investigation is complete and the charge-sheet has been filed, which has compiled the material against all the accused persons and considering that no specific role is attributed to the applicant, which would hold guilty him of the offences punishable under Sections 307, 323, 324 of IPC, though he may take the consequences of the act, if the prosecution is able to prove that he shared the common object, being part of the unlawful assembly. However, at present, his custodial interrogation is not necessary, after lapse of four years and *prima facie*, since no role is attributed to him, he deserves his release on bail

: ORDER :

- (a) Application is allowed.
- (b) Applicant -Kumar Pradip Patil shall be released on bail in connection with C.R.No.101 of 2018 registered with Bhiwandi City Police Station 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 mark his attendance before the concerned police station on 21st, 22nd and 23rd September, 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 the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (e) On being released on bail, the applicant shall give his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(SMT. BHARATI DANGRE, J.)