

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.93 OF 2023

Krushna Suresh Kasar

.... Applicant

Versus

The State of Maharashtra
and another

.... Respondents

.....

Mr. Hemant U. Dhage, Advocate for the Applicant

Ms. R.P. Gour, APP for Respondents – State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 20th FEBRUARY, 2023

ORDER :

1. The applicant apprehends his arrest in connection with Crime No.0873 of 2022 registered with Nagar Taluka Police Station, District Ahmednagar for offences punishable under sections 307, 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code.

2. FIR is lodged by Narayan Indrabhan Walke against 6 accused persons alleging that in the night of 20/12/2022, at Hotel Kiran, 2 male and 2 female came and demanded rooms. The owner of the hotel asked them to show their Aadhaar Card. Those persons stated that they will provide Aadhaar Card and they had dinner in the Hotel. After finishing dinner,

one of them told the owner that they are not having Aadhaar Card, and even then rooms should be provided to them. The owner denied to provide the rooms. Thereafter, those 4 persons gave abuses to the owner and gave threat that they will come back and kill him. Thereafter, at 2.45 p.m., the accused persons came to the lodged and assaulted Lodge manager, the informant, who is looking after the canteen, and the Hotel owner with wooden log, iron pipe, plastic pipe. They also pointed a knife at the neck of the owner, and threatened to kill him. Accused Vishal Borude hit iron rod on the head of the informant, it landed on the right hand finger and arm. Accused Indrajit Kasar assaulted the informant with plastic pipe and stone. Babu Chaudhary and 2 unknown persons arrived at the spot and carried both the accused persons by giving abuses and after scuffling with the owner.

3. Heard learned advocate for the applicant and learned Additional Public Prosecutor for the State. Perused the investigation papers.

4. The involvement of applicant in the incident is clear from CCTV footage of the hotel. The present applicant came on the motorcycle along with 4 accused persons named in the

FIR and participated in abusing and threatening the witnesses, and thereafter, taking away the main accused Indrajit.

5. Sections 147, 148 and 149 are invoked in the present crime. In view of section 149 , every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence. The actual assault made by the main accused is therefore attributed to the present applicant in view of Section 147, 148 and 149.

6. The Scooty, which was used by the applicant in crime and jacket he was wearing at the time of incident is yet to be recovered. Co-accused persons with the applicant, i.e. accused Nos. 1, 2, 4 and 5 appear to be habitual criminals, and Crime No. 1123 of 2020, for the offence punishable under section 302 read with Maharashtra Control of Organised Crime Act, is registered against accused No.1 Indrajit. The present applicant is cousin of accused No.1. Against accused Nos. 2, 4 and 5 crime No. 27 of 2022 for the offence punishable under sections 307, 143, 147, 148, 149, 323, 504, 506 and under sections 4/25 of the Arms Act is registered.

7. It, therefore, appears that the applicant was the member of unlawful assembly and its members have

committed serious offence. Custody of the applicant is necessary for effective investigation and recovery. In view of the aforesaid, the application is rejected.

8. At this stage, learned advocate for the applicant seeks continuation of interim protection. For the reasons stated in the order, the prayer is rejected.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane