

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 210 OF 2023

Piyush Narendra Patil

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

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Mr. A.B. Kale, Advocate h/f Ms. S.A. Kale, Advocate for applicant

Mr. A.A. Jagatkar, A.P.P. for respondent – State

Mr. N.D. Sonavane, Advocate for assist to A.P.P.

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CORAM : R.G. AVACHAT, J.

DATE : 16th MARCH, 2023

PER COURT :

1. This is an application under Section 438 of Code of Criminal Procedure. The applicant claims to have an apprehension of being arrested in connection with Crime No. 97 of 2018 registered with Zilhapeth Police Station, Dist. Jalgaon for the offences punishable under Sections 307, 324, 323, 504, 506, 143, 147, 148 and 149 of the Indian Penal Code and under Sections 37(1)(3) read with Section 135 of Maharashtra Police Act.

2. Heard. Perused First Information Report (“F.I.R.”) and related police papers.

3. F.I.R. has been lodged by one Sunil Bhoite against the applicant and fifteen known and twenty-five unknown persons. It has been alleged in

the F.I.R. that the informant was present at the main office of Jalgaon District Maratha Vidya Prasarak Co-operative Samaj, Jalgaon. He met Jayawant Bhoite there. It was about 04:00 p.m. Vijay Patil, Manoj Patil, Ravi Deshmukh, Vinod Deshmukh and others named in the F.I.R. including the applicant herein came there. Co-accused – Sanjay Patil was armed with an iron rod and the applicant had hockey stick with him. Others were armed with sticks. All of them picked up quarrel with the informant and Jayawant Bhoite. Co-accused – Sanjay Patil assaulted Jayawant Bhoite on his head with the iron rod. The applicant is alleged to have assaulted the informant on his left eye with the hockey stick. The others beat him with sticks and fisticuffs.

4. Learned counsel for the applicant would submit that the offence dates back to June 2018. On investigation, the charge-sheet has been filed. There are two groups claiming management and control over the educational institute. The order prohibiting assembly of more than five persons was promulgated at the relevant time. Police personnel were at the site. A petty quarrel is given the colorful version. He, therefore, urged for grant of application.

5. Learned A.P.P. and learned counsel for the informant would, on the other hand, submit that the applicant has criminal antecedents. The hockey stick is yet to be recovered. Although the charge-sheet has been filed,

the applicant was absconding. His custody is required for further investigation. Both the learned counsel, therefore, urged for rejection of the application.

6. Considered the submissions advanced. Jalgaon District Maratha Vidya Prasarak Co-operative Samaj, Jalgaon is an educational institute. It appears that there was a dispute between the two groups over management and control over the said educational institute. Proceedings under Section 145 of the Code of Criminal Procedure were initiated in those days. Order prohibiting assembly of more than five persons was promulgated by the District Magistrate, Jalgaon at the relevant time. True, some incident did take place on the given day. On investigation, the charge-sheet has been filed. The incident dates back to June 2018. Little over four and half years have been passed post incident. The informant was allegedly assaulted by the applicant with hockey stick, but what is relied on before the Court is the injury certificate of Jayawant Bhoite, who was in the company of the informant and beaten up by the members of the unlawful assembly. Injury certificate of the informant is not on record to suggest he suffered injury to his left eye. It appears that Section 307 of the I.P.C. has been invoked, since the F.I.R. contains allegations that assault was made with an intention to eliminate the informant and Jayawant Bhoite, otherwise it would invoke offence punishable under Section 324 of the I.P.C.

7. The aforesaid observations are prima facie in nature. The trial Court shall not be influenced thereby. It is true that the applicant had moved to this Court an application for grant of anticipatory bail. He withdrew the said application. This took place in 2018 when the charge-sheet was not filed. As such, there is change in the circumstances, giving a fresh cause of action to the applicant to move again for the same relief. It has already been observed here that Section 307 of the I.P.C. has been invoked since the informant alleged that the assault was made with an intention to eliminate him and his companions Jayawant Bhoite. Admittedly, there is dispute between the two groups over management and control of the educational institute. Over four and half years have been passed. On investigation, the charge-sheet has been filed. Informant's injury certificate is not on record. All these facts lead this Court to grant the application.

8. Hence the following order :-

ORDER

(I) Application is allowed.

(II) In the event of arrest of the applicant, in connection with Crime No. 97 of 2018 registered with Zilhapeth Police Station, Dist. Jalgaon for the offences punishable under Sections 307, 324, 323, 504, 506, 143, 147, 148 and 149 of the Indian Penal Code and under Sections 37(1)(3) read with Section 135 of

Maharashtra Police Act, the applicant be released on executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety in the like amount.

(III) The applicant shall appear before the investigating officer, as and when required for the investigating purpose.

(IV) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

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