

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

ANTICIPATORY BAIL APPLICATION NO. 214 OF 2023

Pravin Digambarrao Jadhav

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

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Mr. D.M. Shinde, Advocate for applicant

Mr. N.T. Bhagat, A.P.P. for respondents

Mr. Sh. Majed, Advocate h/f Mr. S.S. Deshmukh, Advocate for intervenor

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CORAM : R.G. AVACHAT, J.

DATE : 08th 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. 17 of 2023 registered with Basamba Police Station, Dist. Hingoli for the offences punishable under Sections 120-B, 143, 144, 146, 307, 326, 452, 427, 147, 148, 149, 323 and 506 of the Indian Penal Code.

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

3. F.I.R. has been lodged by one Prashant Burunge on 15th January, 2023 relating to the previous day's incident. It has been alleged that the

informant and his relations viz. Kapil and cook - Gopal had reported on duty at their Dhaba (roadside eatery). It was 10:00 p.m. 8-9 unknown persons came to the Dhaba. All of them were armed with weapons like sickle, sword, iron rod, sticks, stones, etc. All of them went to the counter of the Dhaba. They assaulted informant and his cousin - Kapil. Rahul Giri, one of the assailants, questioned the informant as to why did he lodge report against the applicant herein. It is also alleged that the assailants damaged the properties at Dhaba and assaulted the informant with sickle.

4. Perusal of the F.I.R. indicates that the applicant was not present at the scene of offence. According to learned A.P.P. and learned counsel for the intervenor, the assailants committed the said offence at the behest of present applicant. The applicant has criminal antecedents. About 7-8 crimes have been registered against him. Both of them, therefore, urged for rejection of the application.

5. It is reiterated that the applicant has not participated in the incident, nor was he present at the scene of offence. He is alleged to have had instigated the co-accused to assault the informant and others. To connect the applicant with the crime in question, the material sought to be relied on is the statement of the co-accused, i.e. the co-accused, who questioned the informant as to why did he lodge police report against the applicant

herein, except this material, there is nothing to connect the applicant with the offence in question. In view of same, the criminal antecedents of the applicant takes the back seat.

6. It is reiterated that since the applicant was not present at the scene of offence, the applicant deserves to be granted anticipatory bail. Order dated 16th February, 2023 granting the applicant ad-interim anticipatory bail is, therefore made absolute. The applicant shall appear before the investigating officer, as and when required for the investigating purpose. The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD