

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

ANTICIPATORY BAIL APPLICATION NO.661 OF 2023

**AJAY BALASAHEB GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. P. N. Muley, Advocate for the applicant
Mr. S. N. Morampalle, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 08th JUNE, 2023

P.C. :-

1. The applicant is apprehending arrest in connection with C.R. No. 62/2023 registered with Majalgaon Rural Police Station, Tal. Majalgaon, District Beed for the offences punishable under Sections 307, 504, 506 of the Indian Penal Code and Section 4/25 of Arms Act.

2. Perusal of the first information report reveals that an incident occurred on 02/03/2023 at around 2.00 pm at the petrol pump on the trifle issue of removing the Rickshaw driven by the applicant halted in front of the tractor of the informant. It is alleged that the applicant had assaulted the informant with *katti*.

3. Learned counsel for the applicant states that it is case

of sudden provocation and on account of the abuses exchanged between the parties the incident in question has occurred. He further submits that *prima facie* offence punishable under Section 307 of IPC is not attracted. He further states that having regard to the nature of offence and in view of the fact that applicant has no criminal antecedents, this is a fit case wherein the applicant can be directed to remain present before the concerned investigating officer for further investigation.

4. Learned APP opposed the said contention by stating that the applicant has used weapon to cause assault on the injured on head and only because the informant has obstructed the said blow, injury was caused to the hands. Thus, according to him offence punishable under Section 307 of IPC is rightly attributed to the applicant-accused.

5. Perusal of the first information report shows that the applicant and informant were not acquainted with each other it can be gathered from the said report that on account of removing of the vehicle altercations took place between the informant and applicant which also included abuses hurled by each other. Admittedly, no serious injuries are caused to the informant. The injury certificate

shows that simple injury caused to the hand of the informant. Thus, this Court finds *prima facie* substance in the contention of the counsel for the applicant that this is not the case where provisions of Section 307 of IPC can be invoked. There is no dispute about the fact that the applicant has no criminal antecedents and having regard to the nature of the incident which was not predetermined, this Court find its appropriate to protect the liberty of the applicant. As far as further investigation is concerned, the applicant is directed to appear before the Investigating Officer and for the purpose of recovery if any he shall be deemed to be in the custody of the police. According to this Court the said condition would be sufficient in order to ensure that appropriate further investigation of the crime is carried out. Hence the order.

ORDER

(i) Application is allowed.

(ii) In the event of arrest of applicant in connection with Crime No. 62/2023, registered with Majalgaon Rural Police Station, Tal. Majalgaon, Dist. Beed for the offences punishable under Sections 307, 504, 506 of IPC and Section 4/25 of Arms Act, he shall be released on bail on furnishing PR Bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount.

(iii) Applicant is directed to appear before the concerned Investigating Officer once a week till filing of the charge-sheet.

(iv) He shall not contact the witnesses directly or indirectly.

(v) He shall not interfere with the evidence in any manner whatsoever.

(vi) He is further directed to cooperate the investigating agency for further investigation.

(R. M. JOSHI, J.)

ssp