

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 742 OF 2023

Ashok s/o Kisan Matkar

... Applicant

Versus

The Superintendent of Police,
Ahmednagar & Anr.

... Respondents

...

Mr. Rahul R. Karpe – Advocate for applicant

Mr. V. S. Badakh – APP for respondent/State

....

CORAM : R. M. JOSHI, J.

DATE : 27th JUNE, 2023

PER COURT :

1. Applicant is apprehending arrest in connection with Crime No. 764 of 2022 registered with Kotwali Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 341, 324, 504, 506 of the Indian Penal Code.

2. Informant – Balasaheb Haribhau Matkar reported to the police while admitted in Shridip Hospital, Ahmednagar, that on 29.09.2023, when he was proceeding to Kedgaon on his motorcycle, co-accused Hemant came in front of him and stopped him. For no reason he was abused by Hemant. Thereafter, Hemant asked his brother (applicant) to bring sickle and stick. When Ashok brought

these weapons, Hemant took sickle in his hand and assaulted on his head. It is alleged that, the applicant herein assaulted him with stick.

3. Learned counsel for the applicant submits that in the year 2011, the applicant has lodged report against the informant and going to the said dispute, false implication of the applicant cannot be ruled out. He further submits that the main allegations are against the co-accused and not the present applicant. It is also pointed out from the report of the Investigating Officer filed before the Judicial Magistrate First Class that there is already recovery of both the weapons at the instance of the co-accused. Custodial interrogation of the applicant is not necessary.

4. Learned APP opposed the contention of the applicant by submitting that there are criminal antecedents against the present applicant. It is also pointed out that the informant has sustained injury which is corroborated by injury certificate placed on record. According to him, the applicant had brought the weapons and also assaulted the informant with stick and, therefore, for these reasons the application deserves to be rejected.

5. *Prima facie* perusal of the FIR indicates that the initial dispute was between informant and the co-accused. It was Hemant, who had called upon the applicant to bring stick and sickle. It is Hemant who assaulted informant on his head with the sickle. Perusal of the injury certificate shows that one injury is caused to the informant. This injury can be attributed to co-accused and not to the present applicant. Since there is already recovery of weapons at the instance of the applicant, his custodial interrogation is not necessary. Perusal of the report shows that one offence is registered against the applicant, however, considering the fact that the present applicant had lodged report against the informant, the possibility of over implication cannot be ruled out. Hence, application is **allowed** in terms of interim order passed by this Court vide order dated 10th May, 2023.

[R. M. JOSHI]
JUDGE

SG Punde