

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 823 OF 2023

Mirza Kalander Baig s/o Mirza Gaffar Baig

Applicant

Versus

The Superintendent of Police & another

Respondents

Mr. S. S. Gangakhedkar, Advocate for the applicant.

Mr. S. N. Morampalle, APP for the State.

CORAM : R. M. JOSHI, J.

DATE : 23rd JUNE, 2023.

PER COURT :

1. Applicant is apprehending arrest in connection with Crime No. 087/2023 registered with Vazirabad Police Station, Dist. Nanded, for the offences punishable under Sections 387, 307, 143, 147, 148, 149, 120B of Indian Penal Code and Sections 4 and 25 of Arms Act.

2. It is the contention of informant that on 23rd March, 2023, when he came out of Masjid, he found that the co-accused indicated about his presence to one Mirza Sikandar and the present applicant. Informant was riding motorcycle and he states that he saw present applicant and Mirza Sikandar pointing out informant to

two to three persons coming on motorcycle. Thereafter one of the persons from that motorcycle assaulted him with *Katti* on his knee. In the said incident, he sustained injuries. It is alleged that there was a conspiracy between the present applicant and the co-accused for assaulting him. Informant has also stated about the previous incident occurred in the month of September 2022 wherein the co-accused Mirza Shabbar Baig demanded money from him by way of extortion.

3. Learned counsel for applicant states that there is no allegation against the present applicant of causing actual assault on the informant. He further pointed out that it is difficult to accept that a person who is riding motorcycle will notice such minute things.

4. Learned APP opposed the application by submitting that informant sustained injuries in the incident and that having regard to the previous incident occurred in September 2022, there is reason to believe that it is a case wherein there is conspiracy hatched by the applicant with co-accused to cause assault on the informant.

Learned APP further states that there is criminal history of present applicant.

5. From First Information Report it is clear that the present applicant is not assailant. This Court finds prima facie substance in the contention of learned counsel for the applicant that it is difficult to notice minute things as narrated in the First Information Report while riding motorcycle. There is previous dispute between the parties and therefore, having regard to the said dispute, possibility of over implication cannot be ruled out. As far as present applicant is concerned, nothing is to be recovered at his instance. Though two offences have been registered against him, for want of any direct involvement of the applicant in the present crime, this Court is inclined to protect his liberty. Hence, the following order :-

ORDER

(I) Application is allowed.

(ii) In the event of arrest of applicant in connection with Crime No. 087/2023, registered with Vazirabad Police Station, Dist. Nanded, for the offences punishable under Sections 387, 307, 143, 147, 148, 149, 120B of the Indian Penal Code and Sections 4 and 25 of Arms Act, he be released on bail on furnishing

PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only)
with one solvent surety in the like amount.

(iii) He shall attend the concerned police station
once in a week.

(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)
Judge

dyb