

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

ANTICIPATORY BAIL APPLICATION NO. 832 OF 2023

SARFARAJ JAFAR SAYYED
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Narwade Narayan B.
APP for Respondents : Mr. G.O. Wattamwar

CORAM : R.M. JOSHI, J.
DATE : 06th June, 2023

PER COURT :

1. Applicant is apprehending arrest in connection with offences punishable under Sections 143, 147, 148, 149, 307, 341, 324, 323, 504, 506 of IPC and Section 4/25 of the Arms Act, pursuant to FIR No. 178/2023 registered with Kotwali Police Station, District Ahmednagar.

2. Informant Md. Arbaz Khan reported to the police that the persons residing in the neighbourhood i.e. Irfan, Imran, Shahrukh, Arbaz, Sameer and Feroz and Salman used to take the chicken from his shop on credit and were never used to pay the money. It is alleged that on the date of incident, these persons came to the spot armed with sticks and sword and they assaulted informant and injured persons. Informant has specifically stated as to who has caused assault on him and the manner in which they were assault.

3. Learned counsel for the applicant states that the informant has not named the present applicant in the FIR as one of the assailant. However, on the basis of the statements of injured witnesses he apprehends arrest. He submits that as per the FIR the assailants are from the neighbourhood and in spite of the same it is not acceptable that the name of the applicant remained to have included therein. According to him, the statements of injured witnesses are recorded after three days and hence, the possibility introduction of the name of the applicant later on cannot be ruled out.

4. Learned APP opposed the said submissions by referring to the investigation papers. He drew attention of the Court to the statements of injured witnesses who claimed that the applicant was one of the assailants and that he has assaulted the injured persons with stick. Reliance is also placed on the injury certificates.

5. From the first information report, it is clear that the the assailants were very well known to the informant as they were residing in the same area, though the informant did not give their full names. However, it is specifically stated that seven persons came to the spot and caused assault. Not only the names

of seven persons are given but specific role is attributed to them in the said assault.

6. In the light of this, the statements of the injured witnesses recorded after three days which creates doubt about the presence of the present applicant at the spot. Though, these witnesses claim that the applicant was also one of the assailants who has caused assault with stick, however, except for one blunt injury to witness Ayan, there is no medical evidence to support claim of assault being caused to the injured persons with stick. The aforesaid facts create doubt about the presence of the applicant at the spot and he being assailant.

7. In the circumstances, the direction to the applicant to remain present before the Investigating Officer and to co-operate in the investigation will suffice the purpose of the investigating agency. Hence, application stands allowed subject to the following conditions :

ORDER

- i. In the event of arrest of applicant in connection with Crime No. 0178 of 2023 registered with Kotwali Police Station, District Ahmednagar, for the offences

punishable under Sections 143, 147, 148, 149, 307, 341, 324, 323, 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.

ii. He shall attend the concerned police station once in a week till filing of the charge-sheet.

iii. He shall not contact the witnesses directly or indirectly.

iv. He shall not interfere with the evidence in any manner whatsoever.

v. He is further directed to cooperate the investigating agency for further investigation.

[R.M. JOSHI, J.]