

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

ANTICIPATORY BAIL APPLICATION NO.877 OF 2023

**ANANT NATHARAO KENDRE
VERSUS
THE STATE OF MAHARASHTRA**

Mr. P. P. More, Advocate for the applicant
Mrs. G. L. Deshpande, APP for the respondent/State
Mr. G. L. Kedar, Advocate for the informant

CORAM : R. M. JOSHI, J.

DATE : 30th AUGUST, 2023

P.C. :-

1. The applicant apprehends arrest in connection with Crime No. 0101/2023 registered with Chakur Police Station, Dist. Latur for the offences punishable under Sections 143, 307, 147, 148, 149, 326, 324, 323, 504 of the Indian Penal Code (for short 'IPC').
2. The informant is the police personnel with Thane Gramin Police Station lodged first information report on 19/03/2023 in respect of the incident occurred on 15/03/2023. It is his contention that on that day at about 12.30 pm an incident occurred in which the present applicant and co-accused assaulted him and his father. He further claimed that they were admitted in the hospital and at the time of lodging of report they were treated therein.

3. Learned counsel for the applicant submits that there are disputes between the parties and considering the said disputes the possibility of false implication cannot be ruled out. He drew attention of the Court to the fact that the incident in question has occurred on 15/03/2023 whereas the report is lodged belatedly. It is further submitted that the intention for lodging of the belated report is that after getting the knowledge of exact injury caused to the informant, accordingly allegations can be made against the accused attributing specific role against them. He further submitted that the applicant is an employee of ZP school and on the date of incident he had attended the school in both morning and afternoon sessions. Having regard to the disputes between the parties and the delay in lodging first information report it is claimed that this is a case of false implication. On the point of custodial interrogation it is submitted that all weapons are already seized and hence the custody of the applicant is not necessary.

4. Learned APP opposed the application by contending that the statement of injured father of the informant is also recorded which shows the overt act committed by present applicant. By referring to the injury certificates of the informant as well as his father it is submitted that the allegations made in the first information report get corroborated by the said injury certificates. It is also submitted that the statements of

witnesses coupled with the medical evidence on record and the photographs relied upon clearly indicate that the applicant is involved in this crime.

5. Learned counsel for the informant initially submitted that the photographs which are filed by the present applicant in his application filed before the learned Addl. Sessions Judge seeking anticipatory bail. When the said fact was verified it is found that no such photograph was placed on record by this applicant. Thereafter another submission is made that the informant himself is relying upon this photograph in order to show that the applicant was present at the spot. When he was asked to substantiate the same, it is claim thereafter that this photograph is filed by co-accused at the time of filing of regular bail application before the Court. From these submissions it is clear that the informant is trying to mislead this Court. As far as claim of the applicant is of present in school, learned counsel for the informant submitted that at the relevant time school ran in one session i.e. morning session only. Thus, according to him this is not case for grant of pre arrest bail.

6. There is no disputes about the fact that the parties are at logger head. It is clear from FIR also there exist previous enmity between the parties which may become cause of commission of crime as well as reason for false implication. Incident in question has occurred on

15/03/2023, whereas report to police is lodged on 19/03/2023. Thus, there is 04 days delay in recording offence. In the instant case even if it is accepted that the informant was admitted in the hospital, it does not stand to any reason as to why his statement was not recorded in the hospital and any report was not lodged immediately. Common people some time come across with situation that cognizance of complaint is not taken by police however this can never happen in case where informant is a police personnel. In such circumstances, this Court finds substance in the contention of the learned counsel for the applicant that deliberately report could have been lodged after getting knowledge about the injury certificate and to attribute role against accused persons in accordance with it.

7. It is also relevant to note that as per the informant's contention the father of the informant also had sustained injury in the said incident. However till 24th July, 2023 no statement of this witness was recorded. It is only after issue was raised on previous hearing that no statement of this witness is found in investigation papers. It is only thereafter the statement seems to be recorded. This Court therefore does not find any reason to give any importance to the said statement at this stage being recorded belatedly.

8. The applicant has come with specific plea that he was present in the school at the time of occurrence of the alleged incident and to support the same, copy of muster roll and certificate are placed on record. It is surprising that, in spite of such plea supported by document the Investigating Officer does not find it necessary to verify the said fact. Only inference which can be drawn from the inaction on the part of the Investigating Officer that there is substance in this plea. Once, it is apparent from record that there is enmity between parties and First Information Report is lodged belatedly, the Court should consider possibility of false implication. The statement of injured witness does not get recorded for 4 months of incident. There is no investigation about presence of applicant at school at relevant time. In this backdrop, when all weapons are already seized and practically investigation is over, there is no propriety in denying liberty of applicant. His custodial interrogation is not necessary. He is not likely to flee from justice. He has no criminal history. In such circumstances, this is a fit case to grant pre arrest bail. Hence, application is allowed in terms of interim order dated 7th June, 2023.

(R. M. JOSHI, J.)

ssp