

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1504 OF 2023

Shubham @ Shubhamappa Shivdasappa Saraf Applicant

Versus

The State of Maharashtra Respondent

Mr. A. V. Lavte, Advocate for the applicant.

Mr. N. B. Patil, APP for the State.

CORAM : R. M. JOSHI, J.

DATE : 6th DECEMBER, 2023.

PER COURT :

1. Applicant apprehends arrest in connection with Crime No. 380/2023 registered with Hingoli (Rural) Police Station, District Hingoli for the offences punishable under Sections 326, 342, 327, 506, 143, 147, 148, 149 read with Section 34 of Indian Penal Code.

2. First informant Rekha lodged report in respect of incident occurred on 15th May, 2023 at around 8.00 pm in which Akshay was assaulted by co-accused. There is allegation that he was threatened not to report this incident to police and hence no immediate report was lodged.

3. Learned counsel for applicant submits that name of the applicant is not mentioned in the First Information Report nor there is any evidence to indicate involvement of applicant in this crime. According to him, he apprehends arrest on the basis of statement of injured recorded on 9th August, 2023. It is submitted that in absence of any overtact being committed by him in this crime and in view of the fact that there is no criminal history against him, liberty of the applicant deserves to be protected.

4. Learned APP opposed the application by relying upon the statement of injured as well as injury certificate. It is the submission of learned App that owing to the threats given by accused to the injured, no report was lodged immediately. However, that could not become ground for grant of pre-arrest bail to the applicant in view of the statement of victim naming present applicant.

5. There is delay of about 2 ½ months in lodging of the report. Needless to say that it will create possibility of false/over implication. In the First Information Report, there is no mention about any other person being present at the spot for the purpose of assaulting victim except for the one who are named therein. As

against this, in the statement of injured/victim, name of other persons is mentioned so also there is mentioned about presence of 10 to 12 unknown persons. This is material improvement in the version of prosecution. Even if statement of victim is accepted to be true, it does not attribute any offence against applicant. Applicant has no criminal antecedents. Hence, application is allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dyb