

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

ANTICIPATORY BAIL APPLICATION NO.1818 OF 2023

SABIRKHAN SIRAJKHAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA

Mr. M. A. J. Shaikh, Advocate for the applicant
Mr. N. B. Patil, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 4th DECEMBER, 2023

P.C. :-

1. Applicant apprehends arrest in connection with Crime No. 183/2023 registered with Daulatabad Police Station, District Aurangabad for the offences punishable under Sections 307, 324, 336, 143, 147, 148, 149, 427 of IPC.

2. First information report shows that some incident has occurred on 13/10/2023 at around 08.30 to 9.00 pm in which according to the informant he was assaulted by applicant and 18 co-accused. He specifically claimed that they assaulted him with iron rod, sticks as well as the stones and bricks.

3. Learned counsel for the applicant states that the said incident counter report has been lodged and the present report is nothing but by

way of false implication. It is submission that the first informant on one hand does not make any specific allegation against the applicant herein whereas after five days of the incident statement is sought to be recorded of the injured who claims that the applicant assaulted him on his head.

4. Learned APP opposed the application by relying upon the injury certificate and statement of injured. He further placed reliance on the photographs of the injured in order to show that gravity of the incident.

5. There is no dispute about the fact that in respect of the same incident two reports are lodged. First informant in his immediate report does not make any reference to the specific overtact of the applicant as against this after five days of the incident the statement of injured came to be recorded wherein implication of the present applicant is sought to be done. Though it is alleged in the first information report that 18 person have assaulted the injured with iron rod, sticks and stones and bricks, however isolated injury simple in nature is caused to the applicant on his informant. In view of the counter report lodged by the applicant side the said injury in all probabilities could have been caused in the free fight. There is nothing on record to show that the informant was admitted in hospital for 20 days or not able to pursue is day to day

activities for this period in order to bring the said injury, in to the definition of a grievous hurt. Prima facie this offence cannot travel beyond Section 324 of IPC. Hence, application is allowed in terms of interim order dated 1st November, 2023.

(R. M. JOSHI, J.)

ssp