

Sayali Upasani

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 650 OF 2023

Pratik Jalindar Bansode	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Raju Yamgor i/b mr. Avinash Reddy, for Applicants.

Mr. M. G. Patil, APP for State.

Mr. Prakash V. Mane, Head Constable, Shahapuri Police
Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 31st AUGUST, 2023

P.C.:-

- 1) Heard the learned counsel for the applicants and the learned APP for the State.
- 2) This is an application for pre-arrest bail in connection with C.R. No. 74 of 2022, registered with Shahapuri police station, Satara, for the offences punishable under Sections 302, 307, 326, 323 read with Section 34 of Indian Penal Code, 1860.

3) When the matter was listed before the Court on 2nd March, 2023, this Court was persuaded to grant interim relief observing, *inter alia*, as under:-

“...2. The Applicant is shown as accused No.4 and described as absconding accused in the charge-sheet filed in connection with C.R.No.74 of 2022 registered on 3rd March 2022 with the Shahapuri police station, Satara. It was registered on the complaint of one Aniket Vishwas Salunkhe. He and one Pratik Badekar were injured in that incident which took place on 2nd March 2022 at 22.20 hours near Phutka Talav, Satara. Initially, the offence was registered under sections 323, 326 read with 34 of IPC.

3. During treatment, the injured-Pratik succumb to injuries and then offence was converted to section 302 of IPC. Though the Applicant is named in the charge-sheet, however, in the FIR lodged on 3rd March 2022, immediately after the incident, name of the applicant is not mentioned. For the first time, the Applicant is named by witness Mangesh Badekar on 4th March 2022.

4. However, learned Advocate for the Applicant submitted that even this statement of Mangesh Badekar was recorded subsequently but it is anti-dated. This fact is fortified by contents of remand report dated 5th March 2022. It is in respect of production of accused Viraj Salunkhe and Jay Gaikwad before the concerned Magistrate. There is no reference of involvement of the Applicant in present C.R.

5. Learned APP invited my attention to statements recorded of various persons and he also submitted that plea of alibi was not accepted by the Court of Sessions while rejecting similar request of the Applicant. Learned APP seeks time as the Officer is present but the Investigating Officer of concerned police station is not present. Be that as it may,

interim protection needs to be granted to the Applicant. The Applicant is not named in FIR, though for the first time the Applicant is named by witness. Learned APP may point out the anomaly on the next date....”

- 4) The learned Counsel for the applicant submitted that, in the intervening period, the investigation is complete and charge-sheet has also been lodged.
- 5) The learned APP invited the attention of the Court to the statement of the deceased, recorded on 13th March, 2022, wherein the name of the applicant is mentioned as one of the assailants. Attention of the Court was also invited to the statement of Mr. Mangesh Ram Badekar, one of the witnesses.
- 6) This Court while granting the interim relief, had considered that the name of the applicant was not mentioned in the FIR and in the remand report dated 5th March, 2022, which came to be filed after the statement of Mangesh Badekar, came to be recorded on 4th March, 2022. As the name of the applicant was disclosed in the statement of Mangesh, ordinarily in the remand report dated 5th March, 2023 the applicant ought to have been shown as one of the persons, who was required to be arrested.
- 7) In any event, even if the statement of the deceased recorded on 13th March, 2022 is considered, it becomes

evident that the applicant was not armed with any weapon. In fact, the deceased stated that the applicant and the co-accused who were stated to be at a distance came to the scene of occurrence. The question as to whether the applicant shared the common intention to commit the murder of the deceased and attempt to commit the murder of the injured would arise for consideration. Since the applicant was not armed with any weapon, at this length of time when the investigation is practically complete, the custodial interrogation of the applicant does not seem to be warranted.

8) I am, therefore, impelled to make interim order absolute on the terms and conditions incorporated therein.

9) In addition, the applicant shall regularly attend the proceedings before the jurisdictional Court.

10) The application stands disposed.

[N. J. JAMADAR, J.]