

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

ANTICIPATORY BAIL APPLICATION NO. 781 OF 2023

Dashrath Bhagwan Ghadage	... Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Sachindra B. Shetye i/b. Mr. Irfan Shaikh for the Applicant.
Mr. R.M. Pethe, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 15th MARCH, 2023.

P. C. :-

1. This is an Application under section 438 of Cr.PC. filed by the aforesaid Applicant apprehending his arrest in C.R.No.12/2023 registered with Karmala Police Station, Solapur for offences punishable under sections 143, 144, 147, 148, 324, 326, 427, 452, 504, 506 r/w. 149 of the Indian Penal Code.

2. Heard learned counsel for the Applicant and learned APP for the State.

3. Mr. Shetye, learned counsel for the Applicant contends that the only allegation in the FIR is that the Applicant herein had inflicted a blow of hockey stick on the back of the Complainant. He submits that

the Complainant had not sustained injury on his back. Moreover, the Applicant was not involved in inflicting injury on Shahaji or any other person. He submits that there is civil dispute between the Applicant and the Complainant and that there is every possibility of the Complainant having falsely implicated the Applicant herein. He further states that the accused no.2 – Dashrath Ghadage was not present at the place of the incident. The CCTV footage shows that he was at the distance of about 20 kms away from the spot of the incident and this fact substantiates the contention of false implication.

4. Per contra, Mr. Pethe, learned APP submits that the statement of Shahaji clearly indicate that the Applicant was involved in inflicting injuries on him. He submits that the medical report shows that said Shahaji sustained grievous injuries. He submits that the material on record prima facie proves the involvement of the Applicant in commission of the said offence and hence, this is not a case for grant of pre-arrest bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

6. The aforesaid crime was registered pursuant to the FIR lodged by Dhanaji Namdev Yewale on 09/01/2023 at 16:43 hours. FIR reveals that on 09/01/2023, at about 09:00 a.m., while the Complainant, his brother-Shahaji and one Motiram were at the grocery store, the Applicant and the co-accused came to the place of the incident armed with hockey sticks, wire, swords and stones and damaged the grocery shop. It is alleged that the co-accused Dashrath assaulted Complainant with hockey stick and Bharat Lokare inflicted a blow of sword on his head. He has stated that the co-accused – Gaurav Ghadage, Subhash Ghadage, Suraj Salgude assaulted Shahaji by hockey stick and caused serious injuries. He has also alleged that the other co-accused also assaulted Balkrishna Ghadge and had damaged his bullet motorcycle.

7. The statement of the injured – Shahaji prima facie reveals that the Applicant herein had assaulted him with a hockey stick. The medical record prima facie reveals that Shahaji had sustained 03 fractures. The injuries are stated to be of grievous in nature whereas the Complainant – Dhanaji had sustained CLW on skull and Balkrishna had sustained CLW and other injuries on the chin, arm and elbow. The injuries sustained by the Complainant and Balkrishna are stated to be of simple in nature.

8. The statement of the injured which is supported by medical evidence prima facie indicates that the Applicant was involved in inflicting grievous injuries on him. The scene of offence panchanama also prima facie proves that the glass and some other items in the grocery shop were damaged. Similarly, the bullet motorcycle was also damaged due to pelting of stones. Hence, prima facie, this is not a case of false implication. The fact that there is a delay of couple of hours in lodging the FIR, is not a ground to disbelieve the case of prosecution.

9. The material on record prima facie shows the involvement of the Applicant in committing aforesaid offence. The nature of the offence would not justify to exercise discretion under section 438 of Cr.P.C. in favour of the Applicant. Under the circumstances, the Application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)