

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.932 OF 2023

Sunil Sidgounda Patil ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Kedar Patil a/w. Mr. Pratik Tare, Ms. Sakshi Kadam, Ms. Gargi Joshi, Mr. Jitesh Mundwar, for the Applicant.
Mr. M.G. Patil, APP, for the Respondent/State.
Mr. S.K. Hasti, PN, Ajara police station present.

CORAM : N. J. JAMADAR, J.
DATE : SEPTEMBER 05, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 167 of 2022 registered at Ajara police station, Kolhapur for the offences punishable under section 307 read with 34 of Indian penal Code, 1860.
3. The first informant Akash Patil lodged a report that on 19th November, 2022 while he was passing through Belewadi Ghat, an unknown person came from behind and accosted him. The said person raked up a quarrel with him for not giving side despite honking horn repeatedly. Another unknown person joined him. Those two persons allegedly assaulted him by means of iron rod and a sharp edged iron weapon. He lost consciousness. When he

regained consciousness, he found himself at Attargi Hospital.

4. The applicant came to be arraigned on the basis of a supplementary statement recorded on 3rd December, 2022. In the supplementary statement, the first informant stated that the applicant and his father were inimically disposed towards him as an incident had occurred in the month of December, 2021 at the Sugar factory.

5. The learned counsel for the applicant submitted that the applicant was not named in the first information report. In the supplementary statement, the applicant came to be named on the basis of information disclosing the identity of the assailants allegedly furnished by the police. Hence, there is no material to establish the identity of the applicant as one of the assailants.

6. Learned APP, on the other hand, submitted that one of the co-accused Tukaram Patil has disclosed the name of the applicant as a co-conspirator in the Memorandum of Disclosure statement recorded under section 27 of the Evidence Act. Furthermore, CDR shows that the applicant was in touch with the said co-accused on the day of occurrence.

7. The claim of the first informant that the applicant was inimically disposed towards the first informant prima facie indicates that the first informant had known the applicant from

before. From the perusal of the allegations in the first information report, it prima facie appears that the first informant had an opportunity to see the assailants. The failure to name the applicant as one of the assailants whom the first informant claimed to have known, makes out a prima facie case in favour of the applicant. The circumstances sought to be pressed into service against the applicant on behalf of the prosecution do not make out a strong prima facie case against the applicant. I am, therefore, inclined to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

- 1] In the event of arrest in C.R. No. 167 of 2022 registered with Ajara police station, the applicant Sunil Sidgounda Patil be released on bail on furnishing a P.R. bond in the sum of Rs. 30,000/- with one or two sureties in the like amount.
- 2] Applicant shall cooperate with the investigation and attend Ajara police station, Kolhapur on 6th, 7th and 8th October, 2023.
- 3] Applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant or any of the prosecution witnesses.
- 4] It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

(N. J. JAMADAR, J.)