



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

ANTICIPATORY BAIL APPLICATION NO. 2784 OF 2023

1. Tanaji Shamrao Maske
2. Udaysing Jaysing Mote ...Applicants
Versus
The State of Maharashtra ...Respondent

Mr. Aditya Raktade, a/w Amruta Devkat, for the Applicants.
Mr. M. G. Patil, APP for the State/Respondent.
API Chetan Mane, Islampur Police Station, Sangli, present.

CORAM: N. J. JAMADAR, J.
DATED: 7th OCTOBER, 2023

ORDER:-

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 CR No.512 of 2023, registered with Islampur Police Station, District Sangli, for the offences punishable under Sections 323, 324, 326, 327, 427 and 504 read with 34 of Indian Penal Code, 1860 ("the Penal Code") and Section 25 read with Section 4 of the Arms Act, 1959.

3. At the outset the learned Counsel for the applicants seeks leave to withdraw the application for applicant No.2 Udaysing Mote.

Leave granted.

4. As regards applicant No.1 - Tanaji, the learned Counsel for the applicants submits that the indictment against the applicant No.1 is that he had assaulted the first informant by means of a bat. In fact, the first informant was the aggressor. In respect of the very same occurrence applicant No.1 Tanaji had lodged a report being CR No.509 of 2023 for the offences punishable under Sections 307, 326, 504 and 506 of the Penal Code and Sections 25 and 4 of the Arms Act, 1959.

5. The prosecution case is that the first informant allegedly had relationship outside marriage with the sister-in-law of applicant No.1. The relations between the family of the first informant and applicant No.1 were thus strained on that count. On 26th August, 2023, while the first informant was passing from in front of the house of the applicant, co-accused Padmini, the wife of applicant No.1, abused the first informant. Thereupon an altercation ensued, applicant No.1 – Tanaji came out of the house armed with a sword and assaulted the first informant. Co-accused Udaysing Mote,

the brother-in-law of applicant No.2, joined applicant No.1 and assaulted the first informant by means of the sword.

6. The learned APP submitted that the injury certificate substantiates the allegations in the FIR as four grievous injuries were found on the person of the first informant. Therefore, applicant No.1 does not deserve the exercise of the discretion.

7. Evidently, in respect of one and the same occurrence two versions have been reported. Even if the allegations in the FIR are taken at par it appears that though the first informant alleged that applicant No.1 - Tanaji was initially armed with sword yet the first informant has refrained from attributing assault by means of sword to applicant No.1. On the contrary, it is categorically alleged that it was the co-accused Udaysing Mote, who unleashed blows by means of the sword and applicant No.1 Tanaji assaulted by means of bat. Since role of assault by a different weapon has been attributed to applicant No.1 – Tanaji and the incident seem to have been occurred at the spur of moment, without pre-mediation, and in front of the house of applicant No.1, the question as to whether applicant No.1 shared the common

intention to commit murder of the first informant would warrant adjudication.

8. In view of the above, I am inclined to exercise the discretion in favour of the applicant No.1 – Tanaji.

9. Hence the following order:

: O R D E R :

- (i) Application of applicant No.2 stands dismissed as withdrawn.
- (ii) In the event of arrest of the applicant No.1 – Tanaji Maske in CR No.512 of 2023, registered with Islampur Police Station, District Sangli, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (iii) The applicant No.1 shall cooperate with the investigation and attend Islampur Police Station on every Saturday in between 10.00 am. to 1.00 pm. for a period of two months or till the filing of the charge-sheet, whichever is earlier.
- (iv) The applicant No.1 shall not tamper with the prosecution evidence and/or give threat or inducement

to the first informant or any of the persons acquainted with the facts of the case.

- (v) The applicant No.1 shall regularly attend the proceedings before the jurisdictional Court.
- (vi) 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.]