

Shiv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1161 OF 2023**

Yatin Anil Patil

...Applicant

vs.

State of Maharashtra

...Respondent

Mr. Munir Ahmed i/b Ms. Shushma Mishra for the Applicant.
Mr. N. B. Patil APP for the Respondent-State.
Mr. S. B. Barda, API, Bhiwandi City police station present.

CORAM : S. M. MODAK, J.

DATED : 3RD MAY 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP for the Respondent-State.
2. The offence is registered on 7th April 2018, against various persons including present Applicant and even though, the charge-sheet is filed, present Applicant is shown as one of absconding accused. After period of five years, when his anticipatory bail Application is rejected by the Court of Additional Sessions Judge, he

has approached this Court. Along with him one Kumar Pradip Patil was also co-Applicant before the Sessions Court, however, said Kumar Pradip Patil was granted anticipatory bail by this Court as per order dated 14th September 2022.

3. Submission is made that section 307 of IPC is not disclosed. The medical certificate is at page 63 of Haresh Hemant Bajage. Submission is also made that considering the allegations in the FIR and role assigned to present Applicant, he cannot be said to be author of injuries which is not on vital part of body. According to learned Advocate, the incident has not taken place entirely in the manner suggested by the first informant Alankar Bhagwan Mukadam.

4. My attention is invited to statement of one Gurunath Balu Patil, who runs a Dhaba at village Ovali, District Bhiwandi. The incident took place at said Dhaba on 6th April 2018 at about 11.30 pm. Initially, the injured Haresh Bajage accompanied by 3-4 friends were taking dinner in outside shed. At that time one Nikhil Chaudhary, Deepak Goud, who are accused in present charge-sheet and other 3-4 persons came there for dinner and they sat in inside shed. At that time injured-Haresh came in the inside shed along

with two friends and went near Nikhil Chaudhary, Deepak Goud and others and started abusing them. The Dhaba owner tried to pacify them, at that time injured Haresh started slapping Nikhil Chaudhary, Deepak Goud and others.

5. At this juncture injured-Haresh and his friends went towards outside shed, after some time 10 to 12 persons came in Dhaba and out of them, present Applicant was one of them. All of them beat injured-Haresh. Accused-Nikhil, who is on bail also threatened him. He assaulted with help of knife. At the same time one Jagdish, friend of Haresh came there to separate quarrel.

6. From the charge-sheet it seems that Haresh Bajage is only one injured person. On the complaint of Alankar Mukadam offence is registered under sections 307, 326, 323, 504, 143, 147, 148, 149 of IPC and under sections 37(1), 135 of the Bombay Police Act. As stated above, the charge-sheet is filed. It is really surprising for all these years the police could not arrest the Applicant or at the most it can be said that the Applicant has successfully evaded arrest. When the Applicant along with co-accused-Kumar Pradip Patil applied for Anticipatory Bail, the first informant Alankar Mukadam has filed an affidavit thereby bringing on record that they have settled the

dispute.

7. It is reflected in para 2 of the order. The Sessions Court has observed that they will be filing quashing petition before Hon'ble High Court.

8. Learned APP is correct that affidavit is filed by the first informant and not injured-Haresh.

9. There is counter FIR filed against the prosecution witnesses and it is claimed that it is under section 326 of IPC and under the offences of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

10. It is true that there is allegation that present Applicant caused injury to one Jagdish with the help of beer bottle. Copy of the charge-sheet is filed along with Application by present Applicant. There is no medical certificate of said Jagdish. Even learned APP admits this fact.

11. Learned APP submitted that there are three offences registered against present Applicant, one is of the year 2016, 2015 and 2019. Be that it may, this Court will have to decide Application on the basis of materials in the present Application.

12. I am inclined to grant Anticipatory Bail to the Applicant for the reason that though not injured, the first informant has said that they have settled the matter. Furthermore, there is counter version that the incident in respect of which there is separate FIR registered, there is injury certificate of Jagdish is not there in the charge-sheet annexed to the Application. No purpose will be served by allowing custodial interrogation of this Applicant. Hence, the following order is passed :

O R D E R

- (a) In the event of arrest, the Applicant-Yatin Anil Patil be released on bail on furnishing personal bond and surety bond of Rs.25,000/- in C.R. No.I-101 of 2018, registered with Bhiwandi City police station for the offences punishable under 307, 326, 323, 504, 143, 147, 148, 149 of IPC and under sections 37(1), 135 of the Bombay Police Act.
- (b) The Applicant shall not threaten the prosecution witnesses or allure them in any manner
- (c) The Applicant shall give attendance to the Bhiwandi City police station on every Tuesday from 10 am to 12 noon until filing of the charge-sheet.

(d) Needless to say, violating of the condition above will make the Applicant liable for cancellation of anticipatory bail, after notice to the Applicant.

13. Application is disposed of accordingly.

14. These are my prima facie observations and the trial Court may not be influenced by that.

15. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]