

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO.1608 OF 2023

Devidas Anant Gaikwad	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Nitin G. Patil, for the Applicant.

Mr. Pandurang H. Gaikwad, APP for the State-
Respondent.

CORAM : AMIT BORKAR, J.

DATED : JUNE 8, 2023

P.C.:

1. The Applicant in connection with C.R.No.253 of 2022 registered with Kamshet police station, Pune for the offences punishable under Section 307, 326, 324, 504, 506, 143, 144, 147, 148, 149 of the Indian Penal Code (for short 'IPC') and under Section 3 and 25 of Arms Act. Aggrieved thereby, the Applicant has filed application under Section 438 of the Code of Criminal Procedure (for short 'Cr.P.C.).

2. The case of prosecution, one Akash Lalgude filed a report alleging that one Shubham Walunjkar quarreled with him without any reason but the informant left the place. Then the informant went towards house of Navnath Chopade and told him about the incident. At that time, Shubham, Gulab, Yogesh came there in a car and they quarreled with the informant and his cousin Sanket and beat them. After about 25 minutes, his friend Pramod and

others came there by motorcycle. At about 4:35 pm, they all went near the house of Navnath and asked reason of quarrel with Shubham, Gulab and Yogesh. Thereafter, there was quarrel between them. Yogesh threatened the informant and others and removed pistol and pointed on forehead of the informant and threatened to kill him. Then, someone hit stick on the hand of Yogesh and pistol fall down. Thereafter, there was fight between them.

3. According to prosecution, Shubham used sickle in assaulting the informant and Navnath shouted loudly and called 15 to 20 people from the vicinity. People came there and started beating the informant and his friends. It is alleged that the threatened Applicant and others having sticks and stones and they chased his friend Pramod and Mangesh with intention to kill him, therefore, first information report (for short 'F.I.R.') is lodged against the Applicant and others.

4. Apprehending arrest, the Applicant filed Application under Section 438 of Cr.PC., which is rejected by the order dated 9th May, 2023. Aggrieved thereby, the Applicant has filed the present Application.

5. According to the Applicant, the report lodged by group of Applicant is first in the point of time in relation to the incident narrated in the report. According to him there is delay of fifteen hours in lodging F.I.R. He invited my attention to the statement of Pramod and Mangesh who according to the prosecution, were injured by the Applicant and others. According to him their

statement and other two independent witnesses have not attributed any active role to the Applicant except instigating others to kill Pramod and Mangesh.

6. Per contra, learned APP submitted that the Applicant has criminal antecedents to his discredit. He has not co-operated with investigation. He has not remain present before the investigating officer. He submitted that the material on record indicates active role played by the Applicant, therefore, custodial interrogation is necessary.

7. Having perused the charge-sheet on record and case papers by the learned APP, prima facie it appears victims alleged assault by Applicant their statement have attributed role of instigating others by shouting to the Applicant. Neither independent two witnesses nor persons who were allegedly assaulted by the Applicant have attributed, a specific active role to the Applicant. Prima facie, it appears that there are two cross F.I.R's which have been filed in relation to the incident. Learned APP submitted that the Applicant is influential person connected to a political parties and there is every possibility that he will be uninfluenced to witnesses or investigation. For the said apprehension, taken care with imposing appropriate conditions, hence, following order:

a) In the event of arrest in connection with C.R. No.253 of 2022 registered with Kamshet police station, Pune for the offences punishable under Section 307, 326, 324, 504, 506, 143, 144, 147, 148, 149 of IPC and under Section 3 and 25 of Arms Act, the Applicant shall be released on bail on furnishing P.R. bond of

Rs.50,000/-, along with one or two sureties in the like amount.

b) The Applicant shall remain present before the concerned police station on 12th, 14th and 16th June, 2023 between 11:00 am to 2:00 pm and thereafter, as and when called by the investigating officer.

c) The applicant shall cooperate with the investigation and make himself available for interrogation whenever required.

d) The Applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

e) The Applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

f) The Applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the Court concerned, and shall not change the residence till the final disposal of the case.

8. Considering apprehension expressed by learned APP, the Applicant shall not enter Maval Taluka except for the purpose of attending investigation as and when called by the investigating officer.

9. The Anticipatory Bail Application stands disposed of.

(AMIT BORKAR, J.)