

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

ANTICIPATORY BAIL APPLICATION NO. 1644 OF 2023

Sanjay Dashrath Kadam

..Applicant

vs.

The State of Maharashtra

...Respondent

Ms.Madhavi Ayyappan i/b. Talekar & Associates – Advocate for Applicant.

Mr.H.J.Dedhia – APP for the Respondent – State.

CORAM : S. M. MODAK, J.

DATED : 12TH JUNE 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP
2. Sometime it happens that symptoms to a patient are disclosed at a later point of time which are not disclosed earlier. In view of that, when the complaint is given initially, it was not registered for serious offence. However, subsequently, when symptoms are disclosed and when treatment is taken, on the basis of those subsequent discoveries, grievous section of Indian Penal Code [“IPC”] are added. In this case, it seems that similar thing has happened. Initially, a non cognizable complaint under Sections 323, 504, 506 read with 34 of IPC was registered. It is on the complaint of

one Jagdish alias Balasaheb Kadam and present Applicant is named as an Accused person. The Report is on Page No.23. It does not disclose that apart from Sanjay Kadam, any other Accused person is there.

3. This report is lodged on the basis of an incident that took place on 19th August, 2022 at about 7.45 a.m at Mauje : Girvi, Taluka : Phaltan in an open ground of Grampanchayat. Earlier, this First-Informant Jagdish has lodged complaint against one Digambar Agawane and he is behind bar and the Applicant was hoping that Digambar Agawane will be released on bail from this Court and the Applicant Sanjay has threatened the First-Informant. There is only an allegation that Applicant Sanjay slapped him below the ear. There is no allegation that the First-Informant was beaten with the help of a kitley.

4. It seems that the First-Informant has problem of failed kidneys and he has taken treatment at Dr.J.T.Pol Hospital at Phaltan and thereafter, in Poona Hospital – Pune. Earlier he was admitted at Phaltan on 29th August, 2022 and then from 30th August, 2022 up till 14th September, 2022, he was admitted at Poona Hospital. Learned APP invited my attention to the certificate issued and the medical

case papers. Now, it is submitted that the offences are converted in Section 307 of IPC.

5. Be that it may, I am inclined to allow this Application. It is for the reason that there is no reference of use of kitley in the NCR complaint. Now, it is told that Mr.Digambar Agawane and his wife Jayashri Agawane they have also been added as Accused persons. The Applicant contends that their allegations support the contention that the FIR is filed with malafide intention.

6. I do not think that the custodial interrogation of the Applicant is required. Attendance can be granted. Hence, order :-

O R D E R

- (i) Application is allowed.
- (ii) In case of an arrest in connection with C.R. No. 728 of 2022 registered with Phaltan Police Station – Satara for the offences punishable under Sections 323, 326, 506 of IPC, the Applicant - Sanjay Dashrath Kadam be released on furnishing personal bond and surety bond of Rs.25,000/-.
- (iii) Applicant is directed to give attendance to Phaltan Police Station – Satara on first and third Saturday from 10.00 to 12.00 noon, until filing of charge-sheet.
- (iv) Applicant not to threaten the Prosecution witnesses or to allure them in any manner.

- (v) In case of breach of any of the conditions, the bail of the Applicant is liable to be cancelled after notice.
- 7. Application is disposed of accordingly.
- 8. All the parties to act on an authenticated copy of this order.
- 9. These are my *prima facie* observations. Let learned trial Court need not be influenced by them.

[S. M. MODAK, J.]