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

ANTICIPATORY BAIL APPLICATION NO.1777 OF 2023

Motiram Ananta Gondhali

...Applicant

VS.

The State of Maharashtra

...Respondent

Mr. Rushikesh Kale i/b Mr. Kabul Singh Labana for the Applicant.

Mr. S. R. Agarkar APP for the Respondent - State.

Mr. A. Govind API, Shil Daighar police station present.

CORAM : S. M. MODAK, J.

DATED : 7TH AUGUST 2023

P.C. :

1. Heard learned Advocate for the Applicant and learned APP. Officer is present.

2. Even though the incident took place on 15/06/2022,
the F.I.R. is registered on 01/10/2022. So there is a delay.

Learned APP invited my attention to the paragraph no. 2 of the F.I.R., it refers to filing of the complaint to the Joint Commissioner of Police and Assistant Commissioner of Police on 25/09/2022 and 21/09/2022. They were filed by the first informant-Pradip Patil and one Akhtar Nasir Shaikh, but even admittedly they were not filed immediately.

3. There are in all five accused person and present Applicant is accused no.2. Already charge-sheet is filed against arrested accused persons. It is annexed to this application.

4. It seems that the incident of assault took place and accused named in the F.I.R. have obstructed the work of digging. It is carried out for the purpose of erection of tin partition. The accused came on the spot in the Wagon-R Car and they have assaulted with the help of various weapons like hockey sticks, iron rods and choppers swords. The present Applicant was alleged to be possessed the iron rod and he assaulted on back of the first informant.

5. The medical certificate is at page no.61 and page no.62 issued by the C.S.M. Hospital Kalwa, Thane. It is for the injuries caused to the first informant-Pradeep Patil and Aktar Hussain Nasir Ahmed, all injuries are simple injuries. There is a contention that how offence under Section 326 of the Indian Penal Code can be invoked. There are no injuries on the back of the first informant.

6. Even though it may be true that there is an allegation

of the use of iron rod by the present Applicant, I do not think that purpose of the investigation to seize the iron rod will be served even if the Applicant will be interrogated by taking into custody because already sufficient period has elapsed.

7. It seems that learned trial Judge has taken rigid view by observing that an offence is serious and weapons are yet to be recovered.

8. Additional factors are quoted :-

- (i) Present Applicant is history sheeter and he has encroached upon land.

9. Offence is with the Shil Daighar Police Station at C.R. No. 283 of 2022 under Sections 143, 148, 149, 326, 504 and 506 of the Indian Penal Code on the complaint of the Pradip Patil. So additional condition needs to be put. Hence the Order:-

ORDER

- (i) Anticipatory bail application is allowed.
- (ii) In case of arrest in connection with C.R. No. 283 of 2022 registered with Shil Daighar Police Station for the offence punishable under Sections 143, 148, 149, 326, 504 and 506 of the Indian Penal Code, the

Applicant be released on furnishing Personal Bond and Surety Bond in sum of Rs. 25,000/-.

- (iii) Applicant is directed to give attendance to the Shil Daighar Police Station, on 17/08/2023, 24/08/2023 and 31/08/2023 from 10.00 a.m. to 12.00 noon.
- (iv) Applicant shall not threaten the prosecution witnesses.
- (v) He is not allowed to enter the limits of the Thane Taluka except for giving attendance to the Police Station for one year.
- (vi) Applicant is directed to give alternate address of the residence to the concerned Police Station.

10. It is made clear that these are my *prima-facie* observations.

11. Anticipatory bail application is disposed of in the aforesaid terms.

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

[S. M. MODAK, J.]