

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

ANTICIPATORY BAIL APPLICATION NO. 2151 OF 2023

Shekhar Padu Magar

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr.Dheeraj Panchange – Advocate for Applicant.

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

Mr.Hemant Supekar – PSI – Kalyan Taluka Police Station.

CORAM : S. M. MODAK, J.

DATED : 17TH AUGUST 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP Officer from Kalyan Taluka Police Station is present.

2. The assault took place in between 18.30 to 19.00 hours at Malhar Dhaba, Anarkharpada, Titwala. The First-Informant Shailesh Lone and his friend Vikas Phodse, they were taking dinner. Five named Accused and others came there and assaulted him with the help of wooden rods. The offence is registered under Sections 324, 323, 504, 506, 143, 147, 149 of Indian Penal Code, 1860 [“IPC”] as well as under Sections 37(1) and 135 of Maharashtra Police Act,

Satish Sangar

1951. Later on, on the basis of certificate issued by Central Hospital – Ulhasnagar on 13th January, 2023, an offence under Section 326 of IPC was added. There were 5 simple injuries and one grievous injury.

3. Learned Additional Sessions Judge rejected the Application for the reason that there was enmity and custodial interrogation cannot be limited to recovery of weapon.

4. Learned APP pointed out that FIR cannot be an encyclopedia of the events and there is supplementary statement recorded of the First-Informant – Shailesh on 23rd December, 2022 wherein he has explained about the previous incidents and the role played by every Accused after seeing the C.C.T.V., footages. It is true that C.C.T.V., footages from that hotel are seized and assistance of witness Vikas was taken for ascertaining the involvement of each of the Applicant.

5. So far as the previous incidents are concerned, the papers disclose the following previous offences :-

- (a) The FIR registered by Accused Sagar Chaudhari against the First-Informant Shailesh Lone and others at the same Police Station on 22nd May, 2022 under Sections 324, 341, 323, 506 read with 34 of IPC.
- (b) A non cognizable offence registered at the instance of the First-Informant at No.2209 of 2022 under

Sections 504, 506 of IPC against Bhavesh Chaudhari
who is cousin brother of Accused Sagar Chaudhari.

6. Admittedly, in these previous incidents, the present Applicant is not involved. Learned Additional Sessions Judge has not perused these documents and hurriedly came to that conclusion. I am inclined to grant an anticipatory bail to this Applicant for the reason that in the FIR, general allegations are there which are subsequently rectified by way of supplementary statement of the First-Informant. He has specifically alleged the role against the present Applicant as beating with the help of a stick. But, it is on the basis of C.C.T.V., footage. Few of the weapons are already seized from arrested Accused persons. The investigation can be carried out even by giving attendance. The Applicant was given a notice under Section 41 of the Code of Criminal Procedure, 1973 ["Cr.P.C."]. He has also attended. That time, Section 326 of IPC was not invoked. Hence, order :-

ORDER

- (i) In case of an arrest in connection with C.R. No. 619 of 2022 registered with Kalyan Taluka Police Station – Thane Rural for the offences punishable under Sections 326, 324, 323, 504, 506, 143, 147, 149 of IPC and under Sections 37(1), 135 of Maharashtra

Police Act, be released on furnishing personal bond and surety bond of Rs.25,000/-.

- (ii) Applicant is directed to give attendance to Kalyan Taluka Police Station – Thane Rural on first and third Wednesday from 10.00 to 12.00 noon until filing of charge-sheet.
- (iii) Applicant not to threaten the Prosecution witnesses or to allure them in any manner.

7. These are my *prima facie* observations. Let the learned trial Court need not be influenced by them.

8. Application is disposed of in the aforesaid terms.

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

[S. M. MODAK, J.]