

Nikita

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

ANTICIPATORY BAIL APPLICATION NO.2189 OF 2023

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Prashant Santosh Kirve

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Mahesh V. Rawool for the Applicant.

Mrs. Rutuja Ambekar, APP for the State/Respondent.

CORAM : AMIT BORKAR, J.**DATED : AUGUST 8, 2023****P.C.:**

1. Apprehending arrest in connection with C.R. No.0177 of 2023, registered with Paud Police Station for offences punishable u/s 307, 504, 506 r/w 34 of the Indian Penal Code, 1860 and Section 4 and Section 25 of the Arms Act, 1959 dated 10.05.2023. The applicant is seeking relief of pre-arrest bail under Section 438 of the Criminal Procedure Code, 1973.

2. The prosecution case in short is as under:

It was alleged that one Sanket @ Monya Ramesh Dalavi Age about 35 years resident of Digambar Ali, Paud Ta. Mulashi, Dist Pune registered present complaint stating that on 10/05/2023 at about 12.05 night said Sanket @ Monya was celebrating his birthday with his friends and relatives. At the said time applicant and two other namely Kartik Dattatray Dalavi and Akshay @

Chikya Vijay Kadu passed by his house twice on their two motorbikes. They ignored them. Thereafter around 12.45 a.m. complainant come out of his house and went to meet his friends who were standing near Digambar temple to wish Complainant on his Birthday. At the said time the above three men again came in front of him on a motorcycle. Out of them, Prashant alias Dada Santosh Kirve and Akshay alias Chikya Vijay Kadu took out sword because of an old dispute and Akshay Kadu looked at informant and threatened to kill him saying that they have come to kill informant.

3. The complainant further allege that, then Prashant Kirve hit him on the head with the sword in his hand saying that Monya should not leave but he saved him by moving aside and immediately after that Akshay Kadu gave him another blow with the sword in his hand. After that Akshay and Prashant hit me against but he missed Karthik Dalvi picked up a big stone from the ground to hit him, he screamed and his brother Aniket, friend Dashrath Chavan, Sangar Landge, some other friends ran towards him to save. Seeing them, Prashant Kirve took a sword and ran away on his motorcycle. Then they caught Karthik Dalvi and Akshay Kadu there while the sword was in Akshay's hand. At that time Akshay Kadu himself hit his head on the ground and started threatening that I will file a false police case against Complainant. After that Complainant and others took them along with the same sword and brought them to Paud Police Station. It is alleged that in said scuffle Complainant suffered injury to his right hand and hence police given him medical list and thereafter he took

medication at Paud Rural Hospital and thereafter registered present complaint.

4. The applicant has filed bail application before the Sessions Judge under Section 438 of Criminal Procedure Code, 1973, which came to be rejected by order dated 17th July 2023.

5. On perusal of the First Information Report and case papers, it appears that role attributed to the applicant is of attempt to assault the informant by Sword. No injury is attributed to the applicant in furtherance of attempted assault. The antecedents alleged the applicant is in relation to offence registered against the informant and applicant jointly. The allegation in the earlier report against the applicant is of assault by using Bamboo.

6. On overall consideration of the facts of the case, the applicant has made out a case for grant of relief under Section 438 of the Criminal Procedure Code, 1973. Hence, following order:

a) In the event of arrest of the applicant in connection with C.R. No.0177 of 2023, registered with Paud Police Station for offences punishable u/s 307, 504, 506 r/w 34 of the Indian Penal Code, 1860. and Section 4 and Section 25 of the Arms Act, 1959, he be released on bail on furnishing P.R. Bond in the amount of Rs.25,000/- with one or two sureties in the like amount;

b) The applicant shall remain present before the investigating officer on 11th, 14th, and 17th August 2023, between 11.00 a.m. to 2.00 p.m. and thereafter as and when called by the concerned 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;
 - f) 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;
 - g) 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;
7. The anticipatory bail application stands disposed of. No costs.

(AMIT BORKAR, J.)