

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

ANTICIPATORY BAIL APPLICATION NO. 2494 OF 2023

Rajendra alias Shtrungh Shivaji Kokare ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Rahul S. Kate, for Applicant.

Mr. R.M. Pethe, APP for State.

CORAM:- N. J. JAMADAR, J.

DATED:- 5th SEPTEMBER, 2023

P.C.:-

- 1) Heard the learned counsel for the applicant and the learned APP for the State.
- 2) This is an application for pre-arrest bail in connection with C.R. No. 300 of 2023, registered with Malegaon police station, Pune, for the offences punishable under Sections 120B, 307, 395, 323, 324, 109, 504, 143, 147, 148 and 149 of Indian Penal Code, 1860 and Section 37 (1) (3) and 135 of Maharashtra Police Act.
- 3) The first informant lodged a report with the allegations that on 21st June, 2023, when the first informant reached the

Filter Plant at village Pandare the applicant and 17 co-accused armed with weapons, charged on him. The applicant allegedly assaulted the first informant by means of a stone on his head. The co-accused also assaulted the first informant by means of weapons with which they were armed. The applicant allegedly took out a knife to stab the first informant. However, due to the alarm raised by the first informant, Shrikant Jagtap and others came thereat and the applicant and the co-accused fled away.

4) The learned counsel for the applicant submits that despite the alleged assault by 18 persons armed with deadly weapons, the first informant has sustained simple injuries. It was further submitted that the very presence of the applicant at the scene of occurrence is in doubt as the alleged eyewitnesses have not stated about the presence of the applicant at the time of occurrence.

5) The learned APP, on the other hand, submitted that the applicant was the key conspirator and there are call detail records to show the instigation by the applicant.

6) I have perused the allegations in the FIR and the Injury Certificate.

7) It is evident that the first informant has sustained simple injuries on the left eyebrow and right and left parietal region.

The statement of Shrikant, who allegedly rushed to the scene of occurrence and rescued the first informant from the clutches of the assailants, does not indicate the presence of the applicant at the scene of occurrence. The first informant named Shrikant as an eye witness to the occurrence. The aforesaid factor, at this stage, makes a prima facie case in favour of the applicant.

8) I am, therefore, persuaded to allow the application. Thus, the following order:-

ORDER

- I) The application stands allowed.
- II) In the event of arrest of the applicant in connection with C.R. No. 300 of 2023, registered with Malegaon police station, Pune, for the offences punishable under Sections 120B, 307, 395, 323, 324, 109, 504, 143, 147, 148 and 149 of Indian Penal Code, 1860 and Section 37 (1) (3) and 135 of Maharashtra Police Act, the applicant be released on bail on executing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- III) The applicant shall co-operate with the investigation and attend Malegaon police station, Pune, on every Sunday in between 10.00 am to 12.00 pm for a period of one month.

IV) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

V) It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

VI) The application stands disposed.

[N. J. JAMADAR, J.]