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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2812 OF 2021
WITH
INTERIM APPLICATION NO.3089 OF 2021**

Vinod @ Balu Vitthal Khandare ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Kuldeep Patil with Mr. Prashant Hagare for the Applicant.
Mr. H. J. Dedhia APP for the Respondent.
Mr. Rohan N. Hogle for the Intevenor in IA No.3089/2021

CORAM : S. M. MODAK, J.

DATED : 1ST FEBRUARY 2023

PC:-

1. Heard learned Advocate for the Applicant and learned APP for the first informant.
2. The Applicant is apprehending arrest in connection with the offence bearing C.R. No.844 of 2021 registered with Satara City police station on 9th September 2021. It was for the offences punishable under sections 307, 397, 326, 427, 506 of the Indian Penal Code and sections 3 read with 25 of the Arms Act and section 37(1) (3)/135 of Maharashtra Police Act.
3. This Court has already granted interim protection from arrest. The Criminal law was set in motion on the complaint of one Sunny Bhosale. The incident took place on 8th September 2021, in front of Talim Sangh at Satara. The first informant Sunny along with some of

his friends had gone to visit to Kas Pathar in Hyundai car whereas his nephew Keval Jadhav along with friends were in Pajero car. The first informant was also possessing Rs.2,10,000/-. When they were returning and when they reached near Moti Chouk, Satara, the first informant received phone call from the present Applicant and he informed that the boys sitting in pajero car have absued him. The first informant told the Applicant that none of them have abused him. The incident does not stops there.

4. When all of them went in front of Karamanuk Kendra, Talim Sangh, the present Applicant along with others came on motor-cycles. The Applicant and the first informant spoke with each other, at that time Keval was beaten by one of the associate of the Applicant. The present Applicant went near Keval and pointed pistol to his head. In the said incident the other accused persons also assaulted the complainant and his friends. During that incident, Subham Bhosale, Ajay Jadhav, Ajinkya Bhoite and Keval Jadhav suffered injuries.

5. The Applicant was not successful before the Sessions Court. However, the Sessions Court granted regular bail to accused Akash Netke, Subham Bise and other persons. My attention is invited to the observations made in that order. One of the factor for granting bail was about nature of the injuries. They were simple in nature. The said order is dated 13th October 2021. However, when the Applicant applied for anticipatory bail before the Sessions Court, there is observation that police have called for opinion from the doctors about nature of injury received by injured i.e. and it Shubham Bhosale was opined that injury No.2 was grievous.

6. According to learned Advocate for the Applicant, the Applicant is elected councilor and as such he undertakes various social welfare measures. There is also emphasis on the visit by learned Home Minister for the State in police station thereby scolding police officers as to how some of the accused were released on regular bail. Learned Advocate relied on affidavit of the Applicant, in support of his contention that police have changed their stand after visit of the learned Home Minister for the State to the police station.

7. There is one letter sent by one Aniket Ashok Tapase to this Court forwarding the photograph showing bouquet to police officer. Learned APP has explained that it was not given by the Applicant but he was shown in the photograph.

8. There is opposition on behalf of the first informant. There is emphasis with regard to earlier 16 offences registered against the Applicant under the Arms Act and that is referred by the Sessions Court in the order.

9. The contention of the Applicant is that police have deliberately applied section 307 of the Indian Penal Code even though it is not warranted. It is true that for offence under section 307, injury is not required but if there is injury, there is enhancement of punishment. Whether there is intention to kill or not has to be gathered from the circumstances. There is reason to believe that police machinery was geared as it is clear from the fact that subsequently opinion of the medical officer was sought about nature of the injury to witness

Shubham. It is also true that injury No.2 caused to Shubham was grievous, and all other injuries are simple in nature. This is one of the factor for considering whether section 307 of the Indian Penal Code is invoked properly or not.

10. This Court is aware that while deciding anticipatory bail application there are restrictions. Even this Court could have made observation on that issue also, if case for grant of anticipatory bail is made out. However, the Applicant has not made out case for grant of anticipatory bail. Even though there is no allegation that firing had taken place but there is allegation that pistol was pointed on head of Keval. This is not stage to decide whether the said allegation is true or not. Even otherwise, other sections invoked under the Indian Penal Code are non bailable. So this Court comes to conclusion that no case for anticipatory bail is made out by the Applicant. Hence, Application is rejected.

11. There is request for extension of interim protection. It is opposed on behalf of learned APP for the Respondent-State and learned Advocate for the intervenor. Interim protection already granted in favour of the Applicant is extended for a period of three weeks from today.

12. Application is disposed of in the aforesaid terms.

(S. M. MODAK, J.)