



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2511 OF 2023**

Keshav Balu Bhange	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Samir Pradhan, for Applicant.
Mr. R.M.Pethe, APP for State.
Mr. Parag Sonawane, Sr. PI, Crime Branch, Navi Mumbai.

CORAM: N.J.JAMADAR, J.

DATE : 7 SEPTEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.204 of 2023 registered with NRI Sagari Police Station, Navi Mumbai, for the offences punishable under Sections 307 and 326 read with Section 34 of the Indian Penal Code, 1860.
3. The first informant is a Deputy Sarpanch of Village Vahal. On 23 June 2023 at about 8.00 p.m. when the first informant and his associates left the party office for their home, four unknown persons charged upon him. Without uttering a word, those persons started to assault the first informant by means of iron rod and stick. His associates Vitesh Mhatre and Ashwin Naik came to his rescue. Thereupon, one of those assailants brandished a sword-stick and aimed the blow at the chest of the first

informant. The first informant took evasive action and the blow fell on the head of the first informant and he sustained bleeding injury. As the first informant and his associates raised alarm, the assailants fled away.

4. Six co-accused came to be arrested. Hrishikesh Jaybhav – accused No.1 turned out to be the principal assailant. During the course of investigation, it transpired that the co-accused Amir Gajanan Mhatre and Sanjay Naik had hired the assailants to assail the first informant on account of the alleged hindrances being put by the first informant and his friends in the work of Sanjay Naik and one Rajan Seth at the Village Panchayat. The first informant and his friend Vitesh had allegedly lodged a report against the said Sanjay Naik, co-accused, and Rajan Sheth with Panvel City Police Station.

5. Apprehending arrest, Sanjay Naik preferred an application for pre-arrest bail being ABA No.2201 of 2023. By an order dated 8 August 2023, this Court declined to exercise the discretion in favour of co-accused Sanjay Naik as from the statements of co-accused, recorded during the course of investigation, complicity of Sanjay Naik was prima facie made out.

6. The learned Counsel for the Applicant submitted that no role has been attributed to the Applicant. He has been roped in only on the basis of the statement of the co-accused. The fact that the applicant has had criminal antecedents has been arrayed against the applicant to deny relief of pre-arrest bail, though there is not an

iota of material against the applicant.

7. In opposition to this, the learned APP submitted that in addition to the antecedents to the discredit of the applicant, there is material to show that the applicant had been in constant contact with the co-accused. CDR reveals that the applicant was in constant touch with the co-accused Amir and Hrishikesh Jaybhav, the principal assailant. As there is material to show that it was the applicant who had suggested the name of and hired the principal assailant – Hrishikesh Jaybhav, it is necessary to have custodial interrogation of the applicant for an effective investigation.

8. I have carefully perused the material on record including the statements of the witnesses and the co-accused. As noted above, this Court declined to exercise discretion in favour of the co-accused – Sanjay Naik, who was also not present at the time of the actual assault. The fact that the said co-accused Sanjay Naik had solicited assistance of the co-accused Amar and the Applicant in hiring assailants to cause injuries to the first informant, weighed with this Court. There is not much qualitative difference between the role attributed to the applicant and Sanjay. The material on record indicates that it was the applicant who had not only suggested the name of the accused No.1 Hrishikesh but also contacted Hrishikesh on multiple occasions. CDR indicates that the applicant was in constant touch with both Hrishikesh and Amar.

9. Since the present case appears to be one of hiring assailants to cause life threatening hurt to the rivals in business/politics, and there is material to show that

the applicant was instrumental in hiring assailants, custodial interrogation of the applicant is warranted. The antecedents of the applicant also dissuade the Court from exercising the discretion in his favour.

10. Hence, the following order :

ORDER

- (i) The Application stands rejected.
- (ii) It is clarified that these prima facie observations are confined to determine the entitlement to pre-arrest bail only.

(N.J.JAMADAR, J.)