



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

ANTICIPATORY BAIL APPLICATION NO. 2721 OF 2023

Rajesh Jayram Bhoir ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Pandit Kasar, for the Applicant.

Mr. M. G. Patil, APP for the State/Respondent.

API Bhaskar Jadhav, Local Crime Branch, Thane (R),
present.

CORAM: N. J. JAMADAR, J.

DATED: 27th SEPTEMBER, 2023

ORDER:-

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 CR No.53 of 2020, registered with Kasara Police Station, District Thane, for the offences punishable under Sections 307, 326, 323, 143, 147, 148, 149, 452, 427, 504, 506 and 188 of Indian Penal Code, 1860 ("the Penal Code").

3. On 6th May, 2020, the first informant Kiran Vekhande was initially assaulted by accused Sagar Bhoir and Naresh Bhoir. They were allegedly armed with sword. They gave blows by means of sword on the head and left hand of the

first informant. As the first informant raised alarm, his family members and relatives came to his rescue. Thereupon the co-accused, in all 27, came thereat and formed an unlawful assembly and in prosecution of the common object of the said unlawful assembly assaulted the first informant, his family members and relatives. A number of persons were injured in the said occurrence.

4. The applicant was alleged to be a member of the said unlawful assembly. The role attributed to the applicant, as is evident from the statements of Shantaram Vekhande and Akshay Vishe, is that of being a member of the unlawful assembly armed with a sword. The applicant allegedly aimed a blow by means of sword on the person of Akshay Vishe, who sustained injury on the left index finger.

5. Mr. Kasar, the learned Counsel for the applicant, submitted that the applicant is a Railway employee. He has been falsely roped in, alongwith all members of the Bhoir family. A similarly circumstanced co-accused Ganesh Bhoir, who is also a Railway employee, has been granted pre-arrest bail by this Court. Investigation is complete and charge-sheet has been filed. Therefore, at this stage, the arrest and custodial interrogation of the applicant are not warranted.

6. As against this, the learned APP submitted that the applicant has been specifically named as the person who was armed with a sword and assaulted the injured Akshay Vishe and, therefore, the custodial interrogation of the applicant is warranted to recover the sword, with which he was armed.

7. I have perused the FIR and the statements of the witnesses. *Prima facie* it appears to be a case of mammoth rioting. It seems members of two groups had a free fight. The first informant has simply named the applicant. Shantaram Vekhande has named the applicant as the person, who was also armed with a sword. No role of assault by means of sword has been attributed to the applicant by Shantaram Vekhande. Akshay Vishe stated that while he was leaving the scene of occurrence, the applicant gave a blow by means of sword on his hand and he sustained an injury on the index finger. I have perused the injury certificate of Akshay Vishe, who has suffered a simple injury on the index finger.

8. It is imperative to note that the initial assault on the first informant was by two named assailants. After the first informant raised an alarm, a number of assailants allegedly

came at the scene of occurrence and committed rioting. Whether the applicant shared the common object of attempting to commit the murder of the first informant and other injured, would be a matter for adjudication. The person whom the applicant allegedly assaulted, has sustained a simple injury. Investigation is complete for all intent and purpose. Charge-sheet has been lodged. At this length of time, the custodial interrogation of the applicant does not seem warranted.

9. Since the applicant is gainfully employed, the possibility of fleeing away from justice appears to be remote. I am, therefore, inclined to exercise the discretion in favour of the applicant.

10. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.53 of 2020, registered with Kasara Police Station, District Thane, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

- (ii) The applicant shall cooperate with the investigation and attend Kasara Police Station on every Saturday in between 10.00 am. to 1.00 pm. for a period of one month.
- (iii) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (vii) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]