



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2762 OF 2023**

Suresh Baburao Khamgal
versus
The State of Maharashtra

... Applicant
... Respondent

Mr. Prashant S. Hagare, for Applicant.
Mrs. Geeta P. Mulekar, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 4 OCTOBER 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.147 of 2022 registered with Indapur Police Station for the offences punishable under Sections 307, 324, 326, 327, 323, 452, 504, 506, 143, 147, 148 and 149 of the Indian Penal Code and Section 4 read with Section 25 of the Arms Act, 1959.
3. The first informant resides at Khamgalwadi, Tal. Indapur. The Applicant is the cousin of the first informant. There had been a dispute between the applicant and first informant over the agricultural lands. On 6 March 2022, at about 3.30 p.m., the applicant, his brother and other relatives formed an unlawful assembly and in prosecution of the common object of the unlawful assembly allegedly assaulted the first informant and his family members by means of deadly weapons like sword and iron rod with an intent to kill them.

4. The Applicant – Suresh was armed with an iron rod and assaulted the first informant’s father Haibati. The Applicant also assaulted the wife of the first informant and attempted to strangle the first informant along with co-accused Pradeep. The members of the unlawful assembly allegedly threw chilly powder in the eyes of the first informant and his family members. After abusing and assaulting them, the accused party left the scene of occurrence, threatening the first informant and his family members with dire consequences.

5. The learned Counsel for the applicant submitted that in respect of the very same occurrence, the brother of the first informant had lodged a report leading to the registration of C.R.No.150 of 2022 for the offences punishable under Sections 324, 323, 504, 506 read with Section 34 of IPC. In the said assault, allegedly perpetrated by the members of the informant’s party, the applicant had sustained injuries. Attention of the Court was invited to the injury certificate of the applicant, his brother Mahavir and Prashant S. Khamgal. It was submitted that the investigation is complete and, at this stage, the custodial interrogation of the applicant is not warranted.

6. The learned APP, on the other hand, submitted that a specific role of assault by means of iron rod has been attributed to the applicant. Injury certificate of the injured Haibati indicates that he had sustained two grievous injuries.

7. The learned Counsel for the applicant joined the issue by pointing out that the assault attributed to the applicant has resulted in simple injuries on the person

of Haibati.

8. Evidently, in respect of the one and the same occurrence, two versions have been reported leading to the registration of C.R.Nos.147 of 2022 and 150 of 2022. It seems that on account of dispute over the boundaries of the agricultural lands, there have been festering quarrels between the two families. On the day of occurrence, it appears there was virtually a free fight. The members of both the groups appeared to be armed with weapons, and have sustained injuries in the said occurrence. Three of the members of the accused also appear to have sustained injuries. It is true, injured Haibati has sustained two grievous injuries. However, *prima facie*, those injuries are not attributable to the assault perpetrated by the applicant.

9. In any event, in a case of this nature, the question as to who was the aggressor and whether the injuries were caused in exercise of right of private defence, would warrant adjudication at the trial.

10. The investigation seems to be practically complete. Chargesheet has been lodged. The weapons of offences including the sword, iron rod and chopper appear to have been recovered. Therefore, at this length of time, the custodial interrogation of the applicant does not seem to be warranted.

11. The applicant appears to have a fixed place of abode. Possibility of fleeing away from justice seems to be remote. I am, therefore, impelled to exercise the discretion in favour of the applicant.

12. Hence, the following order :

ORDER

(i) In the event of the arrest of the Applicant – Suresh Baburao Khamgal in connection with C.R.No.147 of 2022 registered with Indapur Police Station, 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 co-operate with the investigation and report to Indapur Police Station on 11th, 12th and 13th October 2023 in between 10.00 a.m. to 1.00 p.m.

(iii) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses and the persons acquainted with the facts of the case.

(iv) The Applicant shall regularly attend the proceedings before the jurisdictional Court.

(v) The application stands disposed.

(N.J.JAMADAR, J.)