

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3021 OF 2023

Hanumant Namdeo Domale ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Mithilesh Mishra i/b. Mr. Agastya Desai, for the Applicant
Mr. M.G. Patil, APP, for the Respondent/State.
Ms. Sujata Patil, PSI, Shirur police station.

CORAM : N. J. JAMADAR, J.
DATE : OCTOBER 30, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 864 of 2023 registered at Shirur police station for the offences punishable under sections 307, 324, 504 and 506 read with 34 of Indian penal Code, 1860.
3. The first informant is the sister in law of the applicant. The daughter in law of the first informant was residing at her parental home as marital discord had arisen over the alleged relationship outside marriage between daughter in law of the first informant and the son of the applicant. On 18th September, 2023 at about 10 pm, the first informant had allegedly gone to the house of the applicant to question him about the improper conduct of the applicant's son.

An altercation ensued. The applicant allegedly assaulted the first informant and her husband by means of scythe. The applicant's wife also assaulted them by means of stick.

4. The learned Additional Session Judge was persuaded to exercise the discretion in favour of the wife of the applicant. As the applicant had allegedly assaulted the first informant and her husband by means of scythe, the learned Additional Session Judge declined to exercise the discretion.

5. The learned counsel for the applicant submitted that in respect of the very same occurrence, the applicant had lodged the first information report being C.R. No. 863 of 2023 for the offences punishable under sections 307, 324, 452, 504 and 506 read with 34 of the Code. The applicant and his wife had sustained injuries. It was submitted that the informant party was the aggressor.

6. The learned APP, on the other hand, submitted that the first informant and her son had sustained grievous injuries. The weapon of assault scythe is yet to be recovered and, therefore, custodial interrogation is warranted.

7. It appears that the genesis of the offences is the dispute between the parties over the alleged relationship outside marriage between the daughter in law of the first informant and the son of the applicant. The first informant alleges that she had gone to question

about the licentious conduct of the applicant's son. Evidently, the incident occurred at the house of the applicant. In a situation of this nature, where the members of both the groups have sustained injuries in virtually a free fight, the question as to which of the party was the aggressor and whether injuries were caused in exercise of right of private defence, warrants adjudication.

8. Having regard to the nature of the accusations and the relationship between the parties, I am inclined to exercise the discretion in favour of the applicant.

9. In the event of arrest in C.R. No.864 of 2023 registered with Shirur police station, the applicant be released on bail on furnishing a P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

10. The applicant shall cooperate with the investigation and attend Shirur police station, on 6th, 7th and 8th November, 2023 in between 10 am to 1 pm and, thereafter, as and when directed.

11. The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

12. The applicant shall regularly attend the proceedings before the jurisdictional Court.

13. It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Application disposed.

(N. J. JAMADAR, J.)