

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

ANTICIPATORY BAIL APPLICATION NO. 3023 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Soudagar Sudhir Kshirsagar ...Applicant
Versus
The State of Maharashtra ...Respondent

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

CORAM: N. J. JAMADAR, J.
DATED: 31st OCTOBER, 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.251 of 2023, registered with Jodbhavi Peth Police Station, Solapur, for the offences punishable under Sections 326, 324, 143, 147, 149 and 506 of Indian Penal Code, 1860 ("the Penal Code") and Sections 4 and 25 of the Arms Act, 1959.
3. The first informant lodged a report with the allegation that on 13th May, 2023 an altercation ensued over removing the vehicles. The applicant and the co-accused Satish Kshirsagar allegedly abused and assaulted him. The

applicant was armed with a spanner and assaulted the first informant on the head. Co-accused Satish Kshirsagar gave blow by means of an iron rod on the left hand. As the relatives of the first informant came to the scene of occurrence and questioned the applicant, they were also assaulted. Rohit Kshirsagar and Laxmi Kshirsagar, Rohan Chaugule and other persons joined the applicant and they also assaulted the first informant and his relatives.

4. The learned Counsel for the applicant submitted that in respect of the said occurrence, Rohit Kshirsagar, a member of the accused party, had lodged a report being CR No.252 of 2023 at Jodbhai Peth Police Station for the offences punishable under Sections 324, 354, 323, 143, 147, 148, 149 of the Penal Code and Sections 4 and 25 of the Arms Act, 1959. The first informant has given an exaggerated version of occurrence. The first informant has not suffered any grievous injury, which is attributable to the applicant.

5. The learned APP submitted that the applicant and co-accused had formed an unlawful assembly and in prosecution of the common object of the unlawful assembly they assaulted the first informant and his relatives. It was further submitted that the applicant had criminal

antecedents including Sessions Case No.272 of 2023 in which the applicant had been prosecuted for an offence punishable under Section 302 of the Penal Code.

6. The learned Counsel for the applicant, on instructions, submits that in all the offences registered against the applicant, the applicant has been acquitted.

7. I have perused allegations in the FIR. It appears that the incident arose out of a road rage. In respect of the very occurrence, the applicant party has reported a counter versions. It seems in a free fight, the members of both the groups have sustained injuries. As regards the role attributed to the applicant i.e. assault by means of spanner, the injury certificate does not indicate that the first informant had sustained an injury on head.

8. In the aforesaid view of the matter, since the grievous injury suffered by the first informant is not *prima facie* attributable to the applicant and there are two versions of the occurrence, I am inclined to exercise the discretion in favour of the applicant.

9. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.251 of 2023, registered with Jodbhavi Peth Police Station, Solapur, 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 Jodbhavi Peth Police Station on 7th 8th and 9th November, 2023 in between 10.00 am. to 1.00 pm.
- (iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.
- (iv) 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.]