

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

ANTICIPATORY BAIL APPLICATION NO. 3050 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Jalaluddin Nizamuddin Shaikh ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Kamran Shaikh, a/w Farukh Shaikh, for the Applicant.
Mr. M. G. Patil, APP for the State/Respondent.
Mr. Shekhar Mane, for the First Informant/Complainant.

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.727 of 2023, registered with Hinjwadi Police Station, Pimpri-Chinchwad, for the offences punishable under Sections 307, 324, 323, 504, 506, 141, 143, 147, 148, 149 of Indian Penal Code, 1860 ("the Penal Code"), Sections 37(1) and 135 of the Maharashtra Police Act, 1951 and Sections 4 and 27 of the Arms Act, 1959.
3. The applicant and the co-accused, who were unknown to the first informant, were allegedly assaulting another person. The first informant tried to persuade those

assailants not to assault the said person. Thereupon those assailants charged upon the first informant and thereafter fled away.

4. At about 10.30 pm. the assailants again came armed with weapons and started to assault the first informant. He was assaulted by means of scythe, wooden sticks, bottles and the articles which were lying in Shiva Motors, wherein the first informant had entered into to save himself. Hence, the first informant lodged report against seven to eight unknown persons.

5. The learned Counsel for the applicant submitted that the allegations are of omnibus nature. The applicant has been roped in on the basis of the CCTV footage. The applicant was allegedly armed with a scythe. However, the first informant had not sustained any injury by a sharp weapon. Attention of the Court was invited to the injury certificate of the first informant.

6. The learned APP submitted that the applicant has admitted his role in the statement before the police, recorded while he was on interim bail. The said statement cannot be taken into account even at this stage. I have perused the injury certificate. It seems that the first informant had

sustained five CLW. All injuries are designated as simple. It does not appear that the first informant had sustained any cut injury. All the injuries were allegedly caused by hard and blunt object. In the aforesaid view of the matter, as the FIR was lodged against unknown assailants and the first informant was not the person to whom the unknown assailants were initially assaulting, the question as to whether the applicant also shared the common object to cause grievous hurt to the first informant or knew that the said offences would be committed in prosecution of the common object of the unlawful assembly, would warrant adjudication at the stage of trial. I am, therefore, inclined to exercise the discretion in favour of the applicant.

7. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.727 of 2023, registered with Hinjwadi Police Station, Pimpri-Chinchwad, 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 Hinjwadi Police Station on 8th and 9th November, 2023 in between 10.00 am. to 1.00 pm. and, thereafter, as and when directed.
- (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.]