

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

ANTICIPATORY BAIL APPLICATION NO. 3220 OF 2023

Balaso Rajaram Pawar and Others ...Applicants

Vs.

The State of Maharashtra and Others ...Respondents

Mr. Vivek N. Arote with Namrata Awari, for Applicants.

Mr. S. H. Yadav, APP for State.

CORAM:- N. J. JAMADAR, J.

DATED:- 9th NOVEMBER, 2023

PC:-

1) Heard the learned counsel for the applicants and the learned APP for the State.

2) This application is preferred for pre-arrest bail in connection with C.R. No.723 of 2023, registered with Walchand Nagar Police Station, Pune for the offences punishable under Sections 323, 326, 327, 504 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3) The first informant lodged a report with the allegations that on 27th September, 2023, an altercation ensued over celebrating the birthday of his friend Pradeep Falfale. Co-accused Maruti Waghmode assaulted him by means of an iron rod. Applicants also joined in the assault. The applicants gave blows by means of fist and kick blows. The first informant's friend Yogesh Patil was also assaulted by the applicants and co-accused Maruti. The latter had also divested the first informant of a gold chain.

4) The learned Counsel for the applicants submitted that the role of assault by means of weapon has not been attributed to the applicants. Thus, the applicants cannot be said to have caused grievous hurt to the first informant. It was submitted that there is no prima facie material to show that the first informant had indeed suffered a grievous hurt.

5) The learned APP seeks time to take instructions as the Investigating Officer is not present.

6) Prima facie, it appears that the role of assault by means of an iron rod is attributed to accused No. 1 Maruti.

7) The applicants had allegedly beat the first informant and his friend by fist and kick blows.

8) In view of above, I am inclined to exercise of discretion in favour of the applicants.

9) Hence, the following order:-

ORDER

I) In the event of arrest of the applicants in connection with C.R. No.723 of 2023, registered with Walchand Nagar Police Station, Pune for the offences punishable under Sections 323, 326, 327, 504 and 506 read with Section 34 of Indian Penal Code, 1860, the applicants be released on bail on executing a PR Bond in the sum of Rs.30,000/- each, with one or two sureties in the like amount.

II) The applicants shall co-operate with the investigation and attend Walchand Nagar Police Station, Pune on 24th, 25th and 26th November, 2023 in between 10.00 am to 1.00 pm and, thereafter, as and when directed by the Investigating Officer.

III) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case

VI) It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

VII) The application stands disposed.

[N. J. JAMADAR, J.]