

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3236 OF 2023

Gufran Akbar Shaikh ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Aniket Nikam i/b. Mr. Amit Icham, for the Applicant

Mr. S.H. Yadav, APP, for the Respondent/State.

CORAM : N. J. JAMADAR, J.

DATE : DECEMBER 5, 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. 326 of 2023 registered at Yeola City police station for the offences punishable under sections 395, 397, 387, 323 and 506 of Indian penal Code, 1860 and section 4 read with 25 of the Arms Act, 1959.

3. The first informant lodged a report to the effect that on 18th September, 2023, the applicant and co-accused had come to his house and demanded a sum of Rs. 2,00,000/- as the accused No. 1 Farhan had allegedly suffered a loss of Rs. 2,00,000/- consequent to the seizure of contraband article- Gutka Pan Masala, pursuant to the intimation given by the first

informant. Accused No. 1- Farhan threatened the first informant out of his life if the amount was not paid and took out a scythe. When the first informant tried to run away to save himself, the applicant and the co-accused chased him. The applicant assaulted him by means of the scythe on his nose and chin. Alarmed, the nearby shop owners put down shutters. Thereafter, the applicant and the co-accused allegedly divested the first informant of a gold bracelet, cash amount of Rs.7,000/- and a Pan Card.

4. The learned Counsel for the applicant submitted that there is a delay of two days in lodging the FIR. The first informant has criminal antecedents. He has been convicted for an offence punishable under Section 376 of the Penal Code. The applicant has been falsely roped in.

5. The learned counsel for the applicant invited the attention to the order dated 2nd November, 2023 whereby this Court had granted pre-arrest bail to co-accused Imran Mujir. It was submitted that the applicant is entitled to some dispensation.

6. The learned APP resisted the application. It was submitted that the role of the applicant is distinct. The applicant was one of the assailants.

7. While releasing the co-accused Imran Mujir, this Court had

inter alia observed as under:-

7] Prima facie, the injury certificate indicates that the applicant was examined on 29th September, 2023. The alleged incident occurred on 18th September, 2023. On 29th September, 2023 an abrasion on the face and nose was noticed on the person of the first informant. The allegation in the FIR was that the accused No. 1 Farhan assaulted the first informant by means of scythe on nose and chin. An assault by means of scythe on nose and chin may not result in a simple abrasion.

8. Even if the allegations in the first information report that the applicant had assaulted the first informant by means of scythe is taken at face value, the injury certificate, prima facie dents the first informant's version. The aforesaid reasons thus govern the claim of the applicant as well. I am, therefore, persuaded to exercise the discretion in favour of the applicant.

9. In the event of arrest in C.R. No. 326 of 2023 registered with Yeola City 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 Yeola police station, on 11th, 12th and 13th December, 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.)