



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3314 OF 2023**

Prasad Padmakar Sakpal	...	Applicant
versus		
The State of Maharashtra	...	Respondents

Mr. Manoj Kumar Tiwari with Ms. Sejal Nalawade, Mr. Gunjan Surana, for Applicant.

Smt. A.A.Takalkar, APP for State.

Mr. Atmaram T. Kadam, PSI Wadala TT Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 28 NOVEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.352 of 2023 registered with Wadala TT Police Station for the offences punishable under Section 326 read with Section 34 of the Indian Penal Code and Sections 135 and 37(1) (a) of the Maharashtra Police Act, 1951.
3. Co-accused Wasim had a quarrel with the first informant prior to four months. On 4 November 2023, when the first informant called Wasim, while the applicant and Wasim were riding on a motorcycle, co-accused Wasim allegedly assaulted the first informant by means of beer bottle. The Applicant, who was stated to be accompanying co-accused Wasim, gave a blow by means of wooden log on the head of the first informant.

4. Learned APP resisted the application by submitting that the injury certificate has revealed that the first informant had sustained an incised wound over the neck which was a life threatening injury.

5. From the perusal of the allegations in the FIR, it becomes evident that the role of assault by means of beer bottle is attributed to Wasim. Whereas, the friend of the co-accused Wasim allegedly assaulted the first informant by means of wooden log. Even if it is assumed that the applicant was the said unnamed accomplice of Wasim, yet the question as to whether the applicant shared the common intention to cause grievous hurt would warrant adjudication at the trial. Firstly, the applicant had allegedly assaulted by means of a wooden log. Secondly, the incident seems to have occurred at the spur of the moment and without pre-meditation as the applicant as well as the co-accused had picked up weapons lying at the spot and assaulted the first informant.

6. In the aforesaid view of the matter, the custodial interrogation of the applicant does not seem to be warranted to facilitate further investigation. I am, therefore, inclined to exercise discretion in favour of the applicant while directing him to join in the investigation.

7. Hence, the following order :

ORDER

(i) In the event of the arrest of the Applicant – Prasad Padmakar

Sakpal in connection with C.R.No.352 of 2023 registered with Wadala TT Police Station, 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 co-operate with the investigation and report to Wadala TT Police Station on 4th, 5th and 6th December 2023 in between 10.00 a.m. to 1.00 p.m., 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 prosecution witnesses or any of the persons acquainted with the facts of the case.

(iv) The Applicant shall regularly attend the proceedings before the jurisdictional Court.

(v) The application stands disposed.

(N.J.JAMADAR, J.)