

Sayali Upasani

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3321 OF 2023

Balasaheb Namdev Marne ...Applicant

Vs.

The State of Maharashtra ...Respondent

Mr. Satyavrat Joshi with Shivani Kondekar, for Applicant.

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

Mr. Yuvraj Shinde, PSI, Marketyard Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 30th NOVEMBER, 2023

PC:-

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

2) This application is preferred for pre-arrest bail in connection with C.R. No. 261 of 2023, registered with Market Yard Police Station, Pune for the offences punishable under Sections 307, 324, 323, 143, 147, 148, 149 and 506 of Indian Penal Code, 1860 ("the Penal Code") and Section 135 of the Maharashtra Police Act, 1951.

3) The indictment against the applicant is that the applicant and the co-accused formed an unlawful assembly and in the prosecution of the common object of the unlawful assembly assaulted the first informant by means of deadly weapons. The applicant was allegedly armed with a Baseball Stick and gave blows by means of a Baseball Stick on the left hand and head of the first informant.

4) The learned Counsel for the applicant submits that the role of assault by means of scythe is attributed to the co-accused – Rohit. The applicant had allegedly unleashed a blow by means of a stick on the head of the first informant. However, the injury certificate records that the first informant had sustained only one simple injury on head.

5) I have perused the injury certificate. The first informant had sustained a laceration on the occipital region. The first informant has also sustained one contusion and three abrasion on arm, knee and lower back, respectively. Prima facie, it appears that the first informant had sustained only one head injury. The said injury prima facie appears to be on account of a blow by means of a sharp object. The applicant was allegedly armed with a baseball stick.

6) In the aforesaid view of the matter, the question as to whether the applicant also shared the common object of the unlawful assembly or knew that the offence of attempt to commit murder,

would be committed in prosecution of the common object of the unlawful assembly, is a matter which warrants adjudication at the trial. Since the first informant has sustained simple injuries, the applicability of the provisions contained in Section 307 of the Penal Code also appears to be a matter for trial.

7) The applicant appears to have roots in society. Possibility of fleeing away from justice seems to be remote.

8) I am, therefore, persuaded to exercise the discretion in favour of the applicant.

9) Hence, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 261 of 2023, registered with Market Yard Police Station, Pune for the offences punishable under Sections 307, 324, 323, 143, 147, 148, 149 and 506 of Indian Penal Code, 1860 and Section 135 of the Maharashtra Police Act, 1951, the applicant be released on bail on executing 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 attend Market Yard Police Station, Pune on 7th, 8th and 9th December, 2023 in between 10.00 am to 1.00 pm and,

thereafter, as and when directed by the Investigating Officer.

III) The applicant 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

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

V) The application stands disposed.

[N. J. JAMADAR, J.]