

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3566 OF 2023

Nilesh Maonj Kamble	...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.
Mr. Vikram Bansode, PI, Tilak Nagar police station.

CORAM : N. J. JAMADAR, J.
DATE : DECEMBER 20, 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. 659 of 2023 registered at Tilak Nagar police station for the offences punishable under sections 307, 385, 323, 504 and 506(2) read with 34 of Indian penal Code, 1860 and section 37(1)(a) read with 135 of Maharashtra Police Act, 1951.
3. The first informant was working as an agent in LTT Railway station. The applicant and co-accused Krishna Chikne were extorting an amount of Rs. 10,000/- per month. In case, the amount were not paid the applicant and the co-accused allegedly threatened him with dire consequences. On 23rd August, 2023 the co-accused

had called the applicant near LTT Railway station. The co-accused demanded an amount of Rs. 1 lakh. While the first informant tried to reason with him, the co-accused took out a knife and placed the same on the neck of the first informant. The applicant allegedly caught hold of the first informant. The co-accused Krishna gave a blow by means of knife. The first informant saved himself with an evasive action. Yet, the first informant sustained a bleeding injury on the left side of the neck.

4. The learned counsel for the applicant submitted that the role attributed to the applicant is that of catching hold of the first informant and assaulting him by means of fist and kick blows. It was submitted that the applicant was not at all present at the time of alleged occurrence. The applicant has been roped in being a friend of accused No. 1. Inviting attention of the Court to the injury certificate wherein the first informant is shown to have sustained abrasion admeasuring 1 x 0.5 cm approximately and the history of assault by four known and 2 unknown persons by means of unknown object, has been narrated, the learned counsel for the applicant submitted that the first informant has reported a concocted version, belatedly.

5. The learned APP resisted the prayer for pre-arrest bail. It was submitted that the applicant has been specifically named in the first

information report. There are statements of witnesses to show that the applicant was very much present at the time of alleged occurrence. Learned APP further submitted that the antecedents of the applicant dis-entitle him from pre-arrest bail. As many as 9 crimes have been registered against the applicant.

6. I have perused the allegations in the first information report, supplementary statement of the first informant and the material on record.

7. Prima facie, it appears that the first informant has sustained superficial abrasion of 1 x 0.5 cm. It further appears that in the supplementary statement apart from the applicant and the co-accused Krishna, the first informant named another co-accused and unknown person, as the assailants. In the history narrated before the Medical Officer, the assault was attributed to six persons and with an unknown object.

8. In the circumstances, the question as to the whether an offence punishable under section 307 of the Penal Code can be said to have been prima facie made out, arises for consideration. In any event, the role attributed to the applicant is that of catching hold of the first informant and assaulting him by means of fist and kick blows. The weapon of offence has allegedly been recovered.

9. It is true there are crimes registered against the applicant.

Yet, the complicity of an accused in the given case is required to be examined in the light of material on record. In the circumstances of the case, the mere fact that there are antecedents of the applicant, cannot be a ground to deny him the relief of pre-arrest bail, if a prima facie case is otherwise made out. I am, therefore, inclined to allow the application.

10. In the event of arrest in C.R. No. 659 of 2023 registered with Tilak Nagar 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.

11. The applicant shall cooperate with the investigation and attend Tilak Nagar police station, on 3rd, 4th and 5th January, 2024 in between 10 am to 1 pm and, thereafter, as and when directed.

12. The applicant shall not enter the limits of Tilak Nagar police station for a period of six months.

13. 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.

14. The applicant shall regularly attend the proceedings before the jurisdictional Court.

15. It is clarified that these prima facie observations are confined

to determine entitlement to pre-arrest bail only.

Application disposed.

(N. J. JAMADAR, J.)