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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.115 OF 2024

Sandip Balu @ Balasaheb Shirsat

APPLICANT

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....
Mr. Sanjay B. Shirsat, Advocate for the applicant
Mrs. S. S. Joshi, APP for respondent - State
Mr. Y. L. Bidve, Advocate for respondent No.2
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 26th MARCH, 2024

ORDER :

1. This is second anticipatory bail application filed by applicant in connection with Crime No. 509 of 2023 registered with Pathardi Police Station, District - Ahmednagar for offence punishable under sections 302, 324, 323, 143, 147, 148, 149, 504, 506 of the Indian Penal Code.
2. His earlier Anticipatory Bail Application No. 1972 of 2023 was withdrawn on 4th January, 2024, as this Court was not inclined to grant relief.
3. Present application is filed on the ground of parity, as by order passed in Anticipatory Bail Application No. 2151 of 2023 on 8th January, 2024, similarly circumstanced co-accused are

granted anticipatory bail by this Court.

4. Heard learned advocate for applicant, learned APP for the State and learned advocate for respondent No. 2- informant. Perused the papers of investigation.

5. Learned APP and learned advocate for informant have strenuously opposed the application. Learned APP submits that in the order dated 8th January, 2024, it is observed that present applicant and Shubham assaulted wife of informant on head, due to which she suffered serious injury. She submits that earlier application was withdrawn by applicant, after filing of charge sheet and, therefore, there no change in circumstance is brought on record by the applicant and his application deserves to be rejected.

6. Learned advocate for informant submits that the stick, used by applicant, so also motorcycle are yet to be recovered and, therefore, applicant is not entitled for anticipatory bail.

7. Perusal of record, FIR as well as statements of eyewitnesses, reveals that Shubhan and Shadeo both have assaulted with wooden log on the head of Sushila - wife of informant. Though name of applicant is mentioned in the FIR, general allegations are leveled that applicant and three others,

namely, Ranjit Dhytadak, Akshay Dhytadak and Somnath Ganpat Ghule have also assaulted along with main accused Shubhan and Shahdeo. Perusal of the Post Mortem report shows that Sushila has succumbed to the head injury. Column No. 17 refers to only one injury i.e. Contused abrasion present over the face below left eye of size 3 cm X 01 cm of round shape, dark red in colour with swelling and redness of surrounding subcutaneous soft tissue. In Column No. 19, mild heamorrhage is noticed, but no intracerebral heamorrhage is seen, however cause of death is stated as "Head injury" due to hard and blunt object.

8. In the order, granting anticipatory bail to the similarly circumstanced co-accused, name of applicant appears to be inadvertently mentioned by mistake. In fact, instead of applicant, name of Shahdeo was required to be mentioned, as assault is attributed to Shahdeo and Shubham. It is not in dispute that applicant is similarly circumstanced like co-accused Ranjit, Akshay and Somnath. Even the eyewitnesses have not alleged any assault by applicant either to deceased or other injured person. Injury certificates of informant or his son are not there in the investigation papers. Charge sheet is already filed. Applicant has, therefore, made out a case of change in circumstance and on the ground of party also he is entitled for anticipatory bail.

9. In the result, application is allowed.

10. In the event of arrest of applicant - Sandip Balu @ Balasaheb Shirsat in connection with Crime No. 509 of 2023 registered with Pathardi Police Station, District - Ahmednagar, applicant be released on executing Personal Bond and Surety Bond of Rs.15,000/- with one surety in the like amount. Applicant shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE

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