

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 396 OF 2024

Gauspak Abdulrajak Jamdar	..Applicant
Versus	
The State of Maharashtra	..Respondent

Mr. Aditya Raktade a/w. Santosh Mane a/w. Dnyanesh Patil for Applicant.

Ms. Pallavi N. Dabholkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 12 FEBRUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.32 of 2024 registered at Rajarampuri Police Station, Kolhapur, on 14.01.2024, under sections 307, 323, 504 and 506 r/w. 34 of the Indian Penal Code and U/s.5 and 27 of the Arms Act. Subsequently, Section 120B of the I.P.C. is added.

2. Heard Mr. Aditya Raktade, learned counsel for the applicant and Ms. Pallavi Dabholkar, learned APP for the State.

3. The F.I.R. is lodged by one Harshad Powar. He has stated that, he was knowing the present applicant since about

three years. On 13.01.2024, there was a quarrel between them when they were talking with each other telephonically. On 14.01.2024, at about 2.30p.m. the informant, his friend Saddam Mulla and Azaraf Shaikh reached Yadav Nagar, at that time, the accused Saad Shoukat ali Mujawar, Aftaf Devdi and Pandya came there with *sattoor* and other sharp weapon. They asked the informant why he had called 'bhai' and then Saad Mujawar gave a blow with his weapon on the informant's head. Altaf Devdi and Vishal Patil gave blows on his hands and Pandya assaulted him with kicks and fist blows. At that time, the informant's friends Saddam Mulla and Azaraf Shaikh rescued him. He was taken to C.P.R. Hospital, Kolhapur. On this basis the F.I.R. is lodged.

4. The F.I.R. mentions that, he was assaulted because he had called the present applicant. Subsequently, the supplementary statement of the informant was recorded on 16.01.2024. At that time, he had stated that, even the applicant was present when the informant was assaulted and the applicant had come to the spot with other accused. Therefore, the applicant is apprehending his arrest.

5. Learned counsel for the applicant submitted that the applicant's name is not mentioned in the F.I.R. There is nothing to show that the applicant was even present at the spot. The F.I.R. is important because the informant was knowing the applicant and yet he is not named in the F.I.R. The applicant's name is taken as an afterthought. There is nothing to show that the applicant had told the others to give severe blow on the head of the informant. He submitted that the material against the applicant is vague.

6. Learned APP produced the investigation papers before the Court. She submitted that, besides the supplementary statement of the first informant, there are other eye witnesses who have named the applicant in their statements. They have stated that the applicant was present at the spot. She also relied on the medical certificate to oppose this application.

7. I have considered these submissions. The supplementary statement of the informant, mentioning the presence of the applicant at the time of the incident, is recorded on 16.01.2024. There are statements of other eye witnesses namely

Azaraf Shaikh and Ashpaq Mujawar. They are the informant's friends and their statements are recorded on 15.01.2024. But even they have not attributed any particular overt act or weapon to the present applicant. The statement of Asif @ Saddam Mulla who was also a friend of the informant, does not name the present applicant. The medical certificate shows that the informant had suffered a head injury. Therefore, the fact that the assault was committed and he had suffered injuries is not disputed. However, the applicant's presence at the spot appears to be doubtful in view of those above referred statements. In this view of the matter, the only consistent statement is about the assailants telling the informant that they were offended by the informant's phone call to the present applicant. Beyond that, there is no consistent statement against the applicant. Therefore, considering the weak nature of material collected by the investigating agency against the applicant; at this stage, his custodial interrogation will not be justified. At the same time, some conditions can be imposed on the applicant.

8. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.32 of 2024 registered at Rajarampuri Police Station, Kolhapur, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii) The Applicant shall attend the concerned Police Station on every Sunday till filing of the charge-sheet and shall co-operate with the investigation. In addition, the applicant shall attend the concerned police station as and when called and shall cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)