

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

ANTICIPATORY BAIL APPLICATION NO.58 OF 2024

Chetan Sanjay Dusane Applicant
Versus
The State of Maharashtra Respondent

Ms. Ashwini B. Jadhav, Advocate for the Applicant.
Ms. Mahalakshmi Ganapathy, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 10th JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.536/2023 registered at Jaikheda Police Station, Nashik Rural on 5.12.2023 under sections 307, 394 and 324 of IPC.

2. Heard Ms. Ashwini Jadhav, learned counsel for the Applicant and Ms. Mahalakshmi Ganapathy, learned APP for the Respondent-State.

3. The FIR is lodged by Tushar Potdar. He has stated that on 3.12.2023 at about 8.40 p.m., the Applicant called him

telephonically and invited him to celebrate the informant's birthday near Unnati School. The informant went there. The Applicant and four others were present there. The Applicant had put two cakes on a car. The informant and the Applicant celebrated their birth-days. The informant started going back. Suddenly the Applicant came behind him and picked up a quarrel and give a blow with a wooden stick on the informant's head. He kicked the informant in his stomach and when the informant fell down the Applicant removed a knife and tried to give a blow on his neck. The informant warded off that blow and in the process suffered minor injury on his throat. In the incident, a gold chain worn by the informant fell at the spot. The Applicant took it away. After that the informant went away from the spot and he informed his friends. Then he went to the PHC at Nampur and then got himself admitted in a hospital at Malegaon. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the narration in the FIR is not correct. In fact the Applicant

himself was assaulted. He had lodged his own FIR vide C.R. No.535/2023 at Jaikheda Police Station, Nashik Rural on 5.12.2023 under Sections 324, 323, 427, 504, 506 read with 34 of IPC; and he has narrated the correct facts in his FIR.

5. She submitted that after the birth-day of the Applicant and the informant was celebrated, the informant suddenly started abusing the Applicant and slapped him. The informant Tushar Potdar assaulted the Applicant on his hands and chest. The Applicant also went to the police station and then to PHC, Nampur. Thereafter he also went to a hospital at Malegaon for treatment.

6. Learned counsel for the Applicant invited my attention to the medical certificate issued by the hospital at Malegaon. The Applicant had undergone surgery of right hand. She, therefore, submitted that there is no explanation of this injury offered or mentioned by Tushar Potdar in his FIR.

7. Learned APP produced the investigation papers before me which contain the injury certificate in respect of

Tushar. He has suffered two injuries; the first was incise wound of the size 1 x 1 x ½ near the throat. It does not mention whether it is in centimeters or inches. But the injury is described as a 'simple injury'. The other injury is described as blunt injury and it is mentioned that it was a grievous injury.

8. I have considered these submissions. The injury on the informant Tushar's throat was described as a simple injury. The other injury was a blunt injury and even as per the FIR no weapon was used on the stomach of Tushar. Therefore, it is difficult to infer that the Applicant's intention was to commit Tushar's murder. However, that would be a matter of trial. From the above discussion it appears that the narration in the FIR lodged by Tushar Potdar is exaggerated. He has not explained the injury suffered by the Applicant himself for which the Applicant had to undergo surgery.

9. In this view of the matter, custodial interrogation of the Applicant will not be justified. He can be protected by an order of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.536/2023 registered at Jaikheda Police Station, Nashik Rural, the applicant is directed to be released on bail on his furnishing a PR 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 cooperate with the investigation.
- (iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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PRAKASHRAO
DESHMANE
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