

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

CRI. ANTICIPATORY BAIL APPLICATION NO. 318 OF 2024

Devnath Ogyappa Pujari

...Applicant.

Versus

State Of Maharashtra

...Respondent

Mr. Satyavrat Joshi i/b. Adv. Samay Pawar for the Applicant.

Ms. Mahalakshmi Ganapathy, APP for the Respondent-State.

Mr. Kuldeep Nikam for the intervener.

CORAM : SARANG V. KOTWAL, J

DATED : 5th FEBRUARY, 2024

P.C.:

1. Leave to amend. Amendment to be carried out forthwith
2. The Applicant is seeking anticipatory bail in connection with C. R. No. 38 of 2023 registered at Kavathe Mahakal Police Station, dated 01/02/2023 u/s. 326, 324, 323, 504, 506, 427, 143, 147 and 149 of the Indian Penal Code. Subsequently section 307 of IPC was added.
3. Heard Mr. Joshi, learned counsel for the Applicant, Mr. Nikam for the intervener and Ms. Ganapathy, learned APP for the Respondent-State.
4. The FIR is lodged by Sangita Changounder. She had stated that her family had enmity with Daryapa Bagali and his family; because the informant's family had taken Biru Mote's agricultural land for cultivation. The incident took place on 31/01/2023 at about 8.00 am.

The informant's husband Raju and brothers-in-law Ravi and Sanjay had gone to the agricultural land. At that time, the accused, who are named in the FIR, namely, Basavaraj, Shiv, Pandurang, Sujata etc. picked up the quarrel. They took out weapons like sticks, sickles, iron weapons, pipes and started assaulting the informant's family. In this process, the informant's husband, brothers-in-law, she herself, her sister-in-law - Savita and Biru Mote were injured. While they were going to the hospital, the accused Basavraj caused damage to their car as well. Somebody called the ambulance. Then the informant and others went to the government hospital; and after that FIR was lodged.

5. Learned Counsel for the Applicant submitted that he has not been named in the FIR. He is 75 years of age and is suffering from brain damage and he had suffered hemorrhage in the brain. He was hospitalized. He has submitted that the FIR is quite clear but there is no reference to the present Applicant's name. On the other hand, Basavraj has lodged his own FIR vide C.R. No. 39 of 2023 in the same police station u/s 325 of IPC and other sections.

6. Learned Counsel for the first informant submitted that the offences are quite serious and the Applicant is absconding for more than a year. Therefore, the anticipatory bail should not be

granted to him.

7. Learned APP produced the investigation papers before me. The medical certificates show that Raju had suffered fractures on his hand and finger. They were serious injuries. Sanjay had suffered a grievous injury on the head. Biru had suffered six simple injuries. Ravi had suffered skull fracture and hemorrhage in the brain. Those injuries were quite serious. Sanjay had also suffered hemorrhage. Thus, it is quite clear that injured from the informant's group had suffered serious head injuries and fractures. However, the question remains about the involvement of the present Applicant.

8. I have considered these submissions. I have perused the statements produced before me. There are statements of eye witnesses including the injured eye witnesses. There is reference of the Applicant's name in only one statement recorded on 03/03/2023. It is given by Raju Changounder. In that only statement the Applicant's name appeared, when he had named all other accused and he had stated that all of them had assaulted their group with their weapons. Besides this general, vague and belated statement, there is absolutely no reference to the Applicant's name.

9. Learned APP could not point out any other statement making reference to the Applicant's name. The FIR is quite clear that the

Applicant's name is not there. The FIR is lodged on 01/02/2023 and the Applicant's name is mentioned much belatedly by only one witness in a general manner on 03/03/2023. Thus, the material against the Applicant is very vague. The Applicant is 75 years of age and had suffered subdural hematoma. In this background, the custodial interrogation of the Applicant is not justified.

10. Hence, the following order:

ORDER

- (i) In the event of his arrest in connection C. R. No. 38 of 2023 registered at Kavathe Mahakal Police Station the Applicant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)