

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

CR. ANTICIPATORY BAIL APPLICATION NO. 381 OF 2024

Mahesh Janardhan Sathe

...Applicant

Versus

State Of Maharashtra

...Respondent

Adv. Sumant Deshpande i/b. Adv. Sakharam Kadam for the Applicant.

Ms Mahalaxmi Ganapathy, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J

DATED : 9th FEBRUARY, 2024

P.C.:

1. The Applicant is seeking anticipatory bail in connection with C. R. No. 292 of 2023 registered at Khadki Police Station, dated 14/08/2023 u/s. 307, 323, 504, 506 r/w. 34 of the Indian Penal Code and section 135 of the Maharashtra Police Act.
2. Heard Mr. Deshpande, learned counsel for the Applicant and Ms. Ganapathy, learned APP for the Respondent-State.
3. In this case the charge-sheet is already filed. The incident is dated 13/08/2023. Since then, the Applicant is absconding. The FIR is lodged by one Manoj Kengar. He stated that on 13/08/2023 at 9.30 PM, when he was sitting with his brother Nagesh, suddenly the present Applicant, one Ganesh Sathe and Rahul came there.

They started abusing the informant's brother. They started assaulting the informant and his brother by kicks and fist blows. The Accused - Ganesh Sathe gave a blow with iron rod on the informant's head. The Applicant and Rahul continued abusing. Rahul gave a blow with a wooden stick. When Nagesh tried to intervene, Ganesh gave a blow of iron rod on his head. Rahul gave blows of wooden stick. Nagesh was grievously injured. The others gathered at the spot. Thereafter, the FIR was lodged.

4. Learned Counsel for the Applicant submitted that on 12/08/2023 the Applicant's brother Ganesh Sathe had lodged his own FIR vide C.R. No. 287 of 2023 at Khadki police station in respect of another incident dated 11/08/2023 in which one Sonu Kengare had caused wounds on Ganesh's face. Learned Counsel for the Applicant submitted that because of this FIR, the present FIR is lodged against the Applicant and others to falsely implicate them. It is further submitted that no specific role is attributed to the present Applicant. The main role is attributed to Ganesh Sathe and Rahul. The Applicant had not assaulted the informant or his brother. There is no injury in respect of the informant.

5. Learned APP has relied on the statements in the FIR as well as the medical evidence. The medical evidence shows that

Nagesh was unconscious and was not in a position to give statement on 14/08/2023. The head injury appeared to be quite serious. The offence u/s. 307 of the IPC is clearly made out. As can be seen, the Applicant had accompanied the other two accused, who were carrying weapons. Therefore, there was definitely prior meeting of minds. The accused Ganesh gave severe blow on the head of Nagesh. Nagesh's statement was recorded on 07/09/2023. He has corroborated the allegations in the FIR. The Applicant was with the other two accused throughout the incident. He had taken part in the assault. He had also assaulted the other group with kicks and fist blows. Therefore, section 34 of IPC is attracted against him. In this view of the matter, considering the serious nature of injuries and also taking into account the fact that the Applicant is absconding since August, 2023, no case for grant of protection u/s 438 of Cr.P.C is made out.

6. The Application is rejected.

(SARANG V. KOTWAL, J.)