

Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 415 OF 2024

Rohit Balasaheb Marne ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Satyavrat Joshi with Mr. Samay Pawar i/b Disha Rathod,
for Applicant.

Ms. Ranjana Dinesh Humane, APP for State/Respondent

No. 1.

**SAYALI
DEEPAK
UPASANI**

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SAYALI DEEPAK
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Date: 2024.02.29
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CORAM:- N. J. JAMADAR, J.

DATED:- 27th FEBRUARY, 2024.

PC:-

1) Heard the learned Counsel for the applicant and the learned APP for the State.

2) This is an application for pre-arrest bail in connection with CR. No. 261 of 2023, registered with Market Yard Police Station, Pune, for the offences punishable under Sections 307, 324, 323, 143, 147, 148, 149 and 506 of Indian Penal Code, 1860 ("the Penal Code") and Section 135 of Maharashtra Police Act, 1951.

3) At the outset, the learned Counsel for the applicant submits that this Court has granted pre-arrest bail to co-accused – Balasaheb Namdev Marne, the father of the applicant.

4) Attention of the Court was invited to the observations in paragraph Nos. 5 and 6 of the said order. They read as under:-

“...5. I have perused the injury certificate. The first informant had sustained a laceration on the occipital region. The first informant has also sustained one contusion and three abrasion on arm, knee and lower back, respectively. Prima facie, it appears that the first informant had sustained only one head injury. The said injury prima facie appears to be on account of a blow by means of a sharp object. The applicant was allegedly armed with a baseball stick.

6. In the aforesaid view of the matter, the question as to whether the applicant also shared the common object of the unlawful assembly or knew that the offence of attempt to commit murder, would be committed in prosecution of the common object of the unlawful assembly, is a matter which warrants adjudication at the trial. Since the first informant has sustained simple injuries, the applicability of the provisions contained in Section 307 of the Penal Code also appears to be a matter for trial...”

5) The learned Counsel for the applicant further submits that the rest of the co-accused have been released on regular bail by the trial Court. Investigation is complete and charge-sheet has been lodged.

6) The learned APP resisted the prayer for pre-arrest bail. It was submitted that the applicant had assaulted the deceased by means of a sharp object.

7) I have perused the injury certificate. The injury certificate issued by Bharati Vidyapeeth's Bharati Hospital and Research Center, Pune, indicates that the informant had sustained a Laceration on the Occipital Region. The Medical Officer designated the said injury as simple. In addition, the first informant had sustained one Contusion and three Abrasion, which are all designated as simple.

8) Prima facie, the role attributed to the applicant is that of assault by means of a sharp object. In view of the nature of the injury sustained by the first informant, the question as to whether the offence punishable under Section 307 of the Penal Code can be said to be made out would be a matter for trial. The investigation seems to be complete for all intent and purpose and charge-sheet has been lodged. In this view of the matter, at this stage, the custodial interrogation of the applicant does not seem warranted.

9) I am, therefore, inclined to exercise the discretion in favour of the applicant.

10) Hence, the following order.

:ORDER:

I) In the event of the arrest of the applicant in connection with CR. No. 261 of 2023, registered with Market Yard Police Station, Pune, for the offences punishable under Sections 307, 324, 323, 143, 147, 148, 149 and 506 of Indian Penal Code, 1860 and Section 135 of Maharashtra Police Act, 1951, the applicant be released on bail on executing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

II) The applicant shall co-operate with the investigation and attend Market Yard Police Station, Pune, on 5th, 6th and 7th March, 2024 in between 10.00 am to 1.00 pm, and, thereafter, as and when directed by the Investigating Officer.

III) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

IV) It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

V) The application stands disposed.

[N. J. JAMADAR, J.]