

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

ANTICIPATORY BAIL APPLICATION NO. 479 OF 2024

Rohit Ashok Thorat

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Satyavrat Joshi (appeared through V.C.) i/b. Disha Rathod for Applicant.

Mr. Avinash A. Naik, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 20 FEBRUARY 2024

P.C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No.786 of 2023, registered at Tembhurni Police Station, Solapur Rural, on 23.12.2023, under Sections 307, 504 and 506 r/w. 34 of the Indian Penal Code and under Sections 3, 25 and 27 of the Arms Act.

2. Heard Mr. Satyavrat Joshi, learned counsel for the applicant and Mr. Avinash Naik, learned APP for the State.

3. The F.I.R. is lodged by one Vinod Jadhav. He was

having a Kala Kendra. There were four parties consisting of 28 dancers who were having their shows between 7.00p.m. to 12.00p.m. at village Modnimb, Taluka Madha. The F.I.R. is about the incident dated 22.12.2023. At that time, the accused Nikhil Chavan along with his two friends came to the informant's center. The prosecution case is that, one of the friends was the co-accused Ajay Sarate and the other friend was the present applicant. The accused Nikhil Chavan started quarreling with the persons present in the center. The informant intervened and told him not to quarrel with the employees. The co-accused Nikhil then removed a revolver from his pant pocket and aimed at the informant. One of the dancers tried to hold his hand. In the process, the revolver fired and one bullet hit the roof. There was panic all around. Nikhil Chavan and other accused shouted loudly and created terror in that center. After that, they left the place. On this basis the F.I.R. is lodged.

4. Learned counsel for the applicant submitted that, there is nothing to show that the applicant was aware that Nikhil was carrying a revolver and that he would actually use it. Therefore,

the applicant cannot be held responsible for commission of the offence punishable U/s.307 of the I.P.C. He submitted that the applicant is not named in the F.I.R. Though, there are antecedents against him, since he has not committed the present offence, those antecedents may not be held against him.

5. Learned APP opposed these submissions. He produced the investigation papers before me. They contain the statements of the eye witnesses and the others present there. There is a panchanama which mentions that the incident was captured in the CCTV footage. In that panchanama, all the accused are seen clearly. There is a memorandum panchanama pursuant to which the revolver was recovered at the instance of the co-accused Nikhil Chavan. In that statement, he has stated that he had gone to that place with the applicant and the co-accused Sarate.

6. I have considered these submissions. There are statements of the witnesses present at the spot. The informant and all those witnesses have stated that, after the incident the accused created terror in that center. They shouted loudly and threatened

the people present there. The applicant had gone to that center with Nikhil Chavan. They had gone back from that center together. Therefore, at this stage, there is sufficient material to indicate that the applicant had accompanied Nikhil at the spot. The defence that he was not aware of the co-accused carrying revolver will have to be tested during trial. It is the stage of anticipatory bail. At this stage, all this material can be taken into consideration against the applicant. The material is quite incriminating. Besides this, there are at least 10 other offences registered against the present applicant. All these offences are quite serious. One of the offences is even U/s.376 of the I.P.C. Considering all these circumstances, this is not a case where the applicant can be protected U/s.438 of the Cr.p.c.

7. The application is rejected.

(SARANG V. KOTWAL, J.)