

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 568 OF 2024**

Mangesh Dattatray Sawant @ Mogali ..Applicant
Versus
The State of Maharashtra ..Respondents

Mr H.D. Magar a/w Shubhankar Ghosh, for Applicant.

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

CORAM : SARANG V. KOTWAL, J.
DATE : 29 FEBRUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 463 of 2023 registered at Dombivali Police Station, under sections 326, 120B read with 34 of the Indian Penal Code and under section 37(1), 135 of the Maharashtra Police Act, 1951.
2. Heard Mr. Magar, learned counsel for the applicant and Mr. Naik, learned APP for the State.
3. The F.I.R is lodged by Vinod Lakeshri. He was working as a driver in Kalyan Dombivali Municipal Corporation(KDMC). On

27th November, 2023 at about 8.30 p.m. he alongwith his friend Sachin Gavade and Dharamraj Yadav was going towards Dombivali (East). When he reached Khoja Jamadkhana, some unknown persons gave two blows with sharp weapon on his forearms and below his elbow on the right hand. The informant's associates chased the assailants. But they ran away. On this basis FIR is lodged.

4. Learned Counsel for the applicant submitted that there is absolutely no evidence. There is no connection of the applicant with the alleged offence. The prosecution case is that the blow was given by one Kamruddin. He is already arrested and released on bail. In none of the remand reports filed in this case, the applicant's name was revealed.

5. Learned APP produced investigating papers before me. Those contain the injury certificate. He submitted that during the investigation it transpired that the applicant had given contract to the other accused to commit this offence to scare the informant.

6. I have considered these submissions. The injury

certificate shows that the informant had suffered one injury above elbow joint of the size 10 cm x 1 cm by muscle deep and other injury was above wrist joint of the size 6 cm x 1 cm by muscle deep Both the injuries were described as grievous injuries.

7. There are statements of witnesses who had accompanied the informant. They are Dharmaraj Yadav and Sachin Gavade. They have narrated the incident in the same manner in which it is narrated in FIR. The police case is that CCTV footage had captured four persons. They were (i) Kamruddin, (ii) Arbaz, (iii) Mohd. Israil & (iv) Farooq Shaikh. Out of them Kamruddin gave those two blows on the informant's hands. Even as per the prosecution, the applicant was not present at the spot. It is alleged by the prosecution that these persons were engaged by the applicant to commit offence and to scare the informant. However, there is no definite material available with the prosecuting agency supporting these allegations. The interrogation of co-accused has not revealed as to how much amount was paid or was promised to be paid by the applicant to these assailants. There is no specific motive brought on record by the investigation and interrogation in

respect of the other arrested accused. In short, there is absolutely no material against him. Even previous remand applications of the co-accused do not make any such reference to the applicant's role. In this view of the matter, the allegations against the present applicant are vague. His custodial interrogation is not warranted.

8. Learned APP submitted that there are criminal antecedents involving bodily offences.

9. Therefore, inspite of this antecedents, since there is no material connecting with the present applicant, he deserves protection under section 438 of the Cr. P.C.

10. Hence, the following order is passed :

ORDER

- i) In the event of his arrest in connection with C.R. No. 463 of 2024, the applicant is directed to be released on bail on his executing P R. 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 submit his residential address

proof to the Investigating Officer.

iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)