

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

ANTICIPATORY BAIL APPLICATION NO.787 OF 2024

1. Sumit @ Sumedh Tanaji Khare,
2. Tanaji Jagannath Khare,
3. Nanda Tanaji Khare,
4. Sanghmitra Tanaji Khare, &
5. Mahendra Tanaji Khare

.... Applicants

Versus

The State of Maharashtra

.... Respondent

Mr. Piyush Toshnival, Advocate (appeared through V.C.) for the Applicants.

Smt. M.H. Mhatre, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 21st MARCH, 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.177/2024 registered at Shirur Police Station, District-Pune on 26.2.2024 under sections 143, 147, 148, 326, 504 of IPC.

2. Heard Mr. Piyush Toshnival, learned counsel for the Applicants and Smt. M.H. Mhatre, learned APP for the Respondent-State.

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3. The FIR is lodged by one Shalini Mahadik in respect of an incident dated 2.2.2024 which had taken place at around 7.30 p.m.. As per the FIR, all the Applicants had assaulted the informant's son Rajendra causing serious injuries to his leg. The informant and her son went to the police station on 4.2.2024. They were referred to Shirur Primary Health Center and then to Sassoon Hospital. The informant's son had suffered fracture of his leg. It was operated. He was discharged on 16.2.2024 and thereafter this FIR is lodged.

4. Learned counsel for the Applicants submitted that the FIR is lodged much belatedly on 26.2.2024 whereas the incident had taken place on 2.2.2024. Therefore, there is a clear attempt to implicate the Applicants falsely. He submitted that there are many accused but as per the allegations only one stick was used. In this view of the matter, there is clear exaggeration in the FIR and, therefore, benefit should be given to the Applicants.

5. Learned APP opposed these submissions. She produced the investigation papers before me. The important documents in those papers are the injury certificate and the statement of the injured Rajendra.

6. I have considered these submissions. The injury certificate shows that the injured Rajendra had suffered fracture of right proximal end of tibia and hence the injury was grievous. In that context, the statement of the injured Rajendra is important. He has stated that on 2.2.2024 at about 7.00 p.m., the incident started on some petty quarrel as the Applicant Sumit wanted tobacco from Rajendra. On Rajendra's refusal, he got angry but he went away. At about 7.30 p.m. when Rajendra was passing from Sumit's house, he had a word with Tanaji who was Sumit's father. There was some quarrel. In that quarrel, all the Applicants started assaulting Rajendra with kicks and fist blows. In the meantime, Sumit picked up a stick and gave blow with that stick on his right leg, back, stomach etc. The informant's mother and wife came there and rescued him. This statement shows that the incident started on a petty quarrel. It was on a spur of moment.

7. The Applicants had assaulted the injured Rajendra with kicks and fist blows. However, the Applicant Sumit used a stick and gave blow of stick on the right leg of Rajendra. Thus, from the description of the incident, there does not appear to be

a common objection or common intention shared by other Applicants with the Applicant Sumit. Therefore, their case can be separated from that of Sumit. Since Sumit has caused fracture of the leg of injured Rajendra, I am not inclined to protect him. The other Applicants have played a minor role and, therefore, their custodial interrogation is not necessary. Hence, the following order :

ORDER

- (i) The Application on behalf of Applicant No.1 Sumit Khare is rejected.
- (ii) In the event of their arrest in connection with C.R.No.177/2024 registered at Shirur Police Station, District-Pune, the Applicants Tanaji Khare, Nanda Khare, Sanghmitra Khare and Mahendra Khare are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)