

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1043 OF 2024

Chetan Vijay Kawade Applicant
Versus
The State of Maharashtra Respondent

Mr. Shailesh Kharat, for the applicant.
Ms. Rajeshree V. Newton, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 19th APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R No.289 of 2023 registered at Lashkar Police Station, Pune on 03/12/2023 under Sections 307, 120-B,, 34 of the Indian Penal Code and under Sections. 3 and 7 of the Criminal Law Amendment Act, 2013.

2. Heard Mr. Kharat, learned counsel for the Applicant and Ms. Rajeshree Newton, learned APP for the Respondent-State.

3. The FIR is lodged by one Manoj Mehta. However, he is

not an eye witness but the FIR is about the assault on his brother Vijay. The two boys had assaulted Vijay on his head at about 9.45 p.m. Therefore, the statement of Vijay is important. He has stated that on 2/12/2023, at about 9.00 p.m. he was returning home, after closing his shop at Centre Street Road Camp, Pune. His scooter was intercepted by the two unknown boys who had come on their own scooter. The pillion rider started assaulting Vijay with a sharp weapon. Vijay started running to save himself. He left his two wheeler at the spot. He was chased by both these boys. He saw one open shop. He went inside the shop. The two boys chased him and started assaulting him with their weapons. They assaulted on his head and other parts of his body. He fell down. He suffered bleeding incised wounds all over his body. After that, those two boys went away. He was helped by others and then he was taken to Sasoon Hospital. Then he was admitted to Jahangir Hospital. The prosecution case is that the mother of one accused Yuvraj was working with Vijay's family as a house maid. About 5 to 6 months ago, there was an incident of some ornaments missing from Vijay's house. For that purpose, Vijay and his family

had approached the police but had not lodged any written complaint. After that, Yuvraj's mother worked with them for 15 more days and then she left that job. The said accused Yuvraj was holding a grudge against Vijay because Vijay had suspected his mother of committing theft. Yuvraj decided to take revenge. Therefore, he conveyed his intention to his friends Prem Chavan, Sujal Soni, Sarthak Padale and the present Applicant. They hatched the conspiracy to commit murder of Vijay. Accordingly, Yuvraj, Prem and the present Applicant went in the area of Vijay's shop. They stopped at some distance from where they could see Vijay's shop. Yuvraj had brought two choppers. He kept one with himself and gave the other to Prem Chauhan. Yuvraj and Prem Chauhan chased him. They were followed by the present Applicant on his scooter. After that the incident of assault took place. It is the prosecution case that the Applicant had booked a room in Yatrik lodge at Pune. After the incident, the accused went to that lodge for taking shelter and then on the next day they went to their home.

4. Learned counsel for the Applicant submitted that admittedly, the Applicant is not one of the assailants. He is sought to be roped in only on the allegation of hatching conspiracy. There is no material of conspiracy. The only evidence against the present Applicant is that of the statement of the co-accused. At this stage, there is a very weak material against the present Applicant and therefore he may be protected under section 438 of Cr.PC.

5. Learned APP produced the investigation papers including the statement of injured Vijay. The report of the police is produced before the Court and is taken on record. The prosecution case as mentioned earlier is that the Applicant had booked Room No. 204 in Yatrik Lodge, Pune. He had used his Aadhar card to book that room. After the incident, the Applicant had stayed in that room along with the other accused. The Applicant had one more offence i.e., C.R. No. 86 of 2022 registered at Bund Garden Police Station along with the main accused Yuvraj under section 324 of the I.P.C.

6. I have considered these submissions. The medical certificate shows that the injured Vijay had suffered parietal bone fracture. There were incised wounds on both the hands. At the time of admission to the hospital Vijay was not in a position to give his statement. The injury on the head was of the size 8 to 10 cm. x 1 cm. The injury on the left wrist was 2 x .5 cm. Thus it is quite apparent that the injured Vijay was assaulted in a crowded locality. He was chased with sharp weapons in their hands. The incident shows utter disregard for the law. As submitted by the learned APP, two of the accused are minors. The Applicant has played a definite role. He has taken part in hatching conspiracy and even after the incident he had booked a room where the assailants and the other accused had stayed. At this stage, there is sufficient material against the present Applicant. No case for protection under sec. 438 of Cr.PC. is made out. The application is rejected.

(SARANG V. KOTWAL, J.)