

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

ANTICIPATORY BAIL APPLICATION NO.1097 OF 2024

Arbaaz Javed Shaikh	 Applicant
Versus	
The State of Maharashtra	 Respondent

**.....
WITH
INTERIM APPLICATION NO.1869 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.1097 OF 2024**

Mr. Priyal G. Sarda, Advocate for the Applicant.
Mr. Nitin B. Patil, APP for the Respondent-State.
Mr. B.A. Lawate, Advocate for the Intervenor.

CORAM : SARANG V. KOTWAL, J.

DATE : 30th APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.232/2024 registered at Indapur Police Station, District-Pune on 7.3.2024 under sections 143,

147, 148, 149, 307 of IPC, under Sections 25 & 4 of the Arms Act and under Section 135 of the Maharashtra Police Act.

2. Heard Mr. Priyal Sarda, learned counsel for the Applicant, Mr. Nitin Patil, learned APP for the Respondent-State and Mr. B.A. Lawate, learned counsel for the Intervenor.

3. The FIR is lodged by one Afsar Pathan. He has stated that in January, 2024 there was a quarrel between the informant's cousin Shamir and one Wasim Shaikh. On 6.3.2024, the informant, his two sons and his other companions had gone to a Masjid at 8.30 p.m.. When they were returning, nine accused stopped them. They were carrying swords, sickles and iron rods. The Applicant is also named as one of them. It is alleged that the accused Wasim tried to give a blow on one Shamir. The informant intervened. Therefore, the informant was assaulted by Wasim by a sickle. The accused Sohail assaulted Shamir with *gupti*. Faizan assaulted Nihal Pathan with a sword thereby cutting his ear. It is alleged that the Applicant and others assaulted

the informant, Shamir and Nihal with iron rods. On these allegations, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the Applicant was at Barshi at the time of incident from where it is a two hours journey from Indapur. It was not possible for him to have committed this offence. The Applicant is in possession of CCTV footage of the area at Barshi in respect of the time from 7.30 p.m. to 9.20 p.m. on 6.3.2024. He submitted that the said fact can very well be verified by the prosecuting agency.

5. Learned counsel for the informant and learned APP opposed these submissions. Learned APP produced the investigation papers before the Court.

6. I have considered these submissions. The injury certificate shows that Shamir Pathan had suffered grievous injury on left eye. Nihar's left ear was cut. Those injuries are serious. However, the question is whether the Applicant is involved in this offence. Learned counsel for the Applicant

has relied on his *alibi*. However, apart from that, the important aspect is the statements of important witnesses, namely, Fakir Pathan, Ashfaq Inamdar and Saddam Sayyed. Fakir Pathan is the injured Shamir's father. He had seen the incident. Ashfaq and Saddam are the two independent witnesses. All these three witnesses have not named the present Applicant. They have named the other accused and have attributed roles to them.

7. Thus, in any case, even the first informant and other injured have not attributed any specific role to the Applicant. Hence, sufficient doubt is created about not only the Applicant's role but even his presence at the spot.

8. In this view of the matter, the Applicant can be protected under Section 438 of Cr.P.C. It is sufficient if he cooperates with the investigation. However, looking at the enmity between the parties, it is necessary to impose certain conditions on the Applicant.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.232/2024 registered at Indapur Police Station, District-Pune, the Applicant is directed to be released on bail on his furnishing PR 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 attend the concerned police station once every week for a period of four months from today.
- (iii) Anticipatory Bail Application is disposed of accordingly. With disposal of the main application, nothing survives in the Intervention Application and it is also disposed of.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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