

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

ANTICIPATORY BAIL APPLICATION NO. 1209 OF 2024

Nagnath Haridas Shinde

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Ritesh Thobde, (appeared through VC) a/w Changder Shingade a/w Ankita Rai, for the applicant.

Smt. Madhavi H. Mhatre , APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.

DATE : 2nd MAY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R No.77 of 2024, registered at Karkambh Police Station, Solapur, on 16/03/2024, under Sections 307, 325, 323, 504, 506 r/w 34 of the Indian Penal Code.

2. Heard Mr. Ritesh Thobde, learned counsel for the Applicant and Smt. Madhavi H. Mhatre , learned APP for the Respondent-State.

3. The FIR is lodged by one Gurunath Shinde. He has stated that on 15/03/2024 he heard a sound of a tractor driven in his agricultural land at Gat No. 103/6. The informant went there. His relative Vivek Shinde was driving a tractor in the informant's field. The present Applicant was standing at some distance. The informant stood in front of the tractor and stopped Vivek from driving the tractor, but he did not stop. He drove it towards the informant. The informant fell down. At that time, the Applicant took a nylon rope from the tractor and put it around the informant's neck and tried to strangle him. The informant tried to rescue himself. Vivek got down from the tractor and held his legs. Another accused Pandurang Shinde came there. He removed a rod from the tractor and started assaulting the informant on his head, back and thigh from behind. The Applicant gave blows on the face and on both the eyes. The informant's tooth was broken. It is his case that because of this assault, he became unconscious and lay there. He regained his consciousness on 16/03/2024 at 4.30 p.m. and then he lodged this FIR in the night on 16/03/2024.

4. Learned counsel for the Applicant submitted that this

false FIR is lodged out of the previous enmity. A co-accused of the Applicant has lodged his own NC in respect of the incident which had taken place earlier. He submitted that ingredients of section 307 are not made out. The allegations in this case are exaggerated. The custodial interrogation of the Applicant is not necessary. The incident had occurred on the spur of the moment.

5. Learned APP opposed these submissions and she produced the investigation papers.

6. I have perused the investigation papers. There are statements of other family members of the informant. The informant's mother Mangal Shinde stated that on 15/03/2024 at around 5.45 p.m., she was informed that the informant was assaulted in the agricultural field. Therefore, this witness Mangal rushed there. She saw that the informant was lying there. With her help he came to his house. Thereafter, he was taken to the hospital. Similar are the statements of the other family members. The medical certificate shows that the informant had suffered four

injuries. They are described as simple injuries. There was swelling around the neck and simple injuries around both the eyes. The CT scan shows that there was mild diffused cerebral odema But it could be caused be a fall.

7. As rightly submitted by learned counsel for the Applicant, the allegations in the FIR appear to be exaggerated. There was previous dispute. All the injuries are simple. The allegation are that the co-accused Pandurang had assaulted the informant on head, back and thigh. However, there are no external injuries. In any case, the main question is that if the Applicant had intention to commit murder of the informant, nobody could have stopped him and his co-accused from executing their plan because the informant was without any weapon. He was alone and he was at the mercy of the accused. But only simple injuries were caused to him. Therefore, at this stage, sufficient doubt is created as to whether section 307 of the I.P.C. can be attracted in this case.

8. In this view of the matter, the Applicant's custodial interrogation is not necessary, particularly when the injuries are described as simple injuries. Hence the following order.

ORDER

- (i) In the event of his arrest in connection with C.R No.77 of 2024, registered at Karkambh Police Station, Solapur, the Applicant is directed to be released on bail on his executing 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 as and when called and shall co-operate with the investigation.
- (iii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)