

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.560 OF 2024

Shaikh Aqueel Shaikh Mohd Shafee	...Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Sanjeev Kadam i/b. Mr. Kishan Chaudhari, for the Applicant
Mr. B.V. Holmbe-Patil, APP, for the Respondent/State.
Mr. Sujit Sahoo, for the Intervener.

CORAM : N. J. JAMADAR, J.
DATE : FEBRUARY 29, 2024

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 15 of 2024 registered at Malegaon City police station for the offences punishable under sections 307, 323, 325, 379, 504, 506, 143, 144, 147, 148, 149 read with 34 of Indian penal Code, 1860 and section 25(3) Arms Act, 1959.
3. The first informant lodged report with the allegation that in the year 2020-21 a dispute had arisen over a land situated at Survey No. 214, Near Ali Akbar Hospital, between the applicant and the first informant. Proceedings were instituted in the Civil Court. The first informant further alleged that the applicant had visited the disputed property and threatened to eliminate the first informant.

4. In pursuance of a criminal conspiracy, on 15th January, 2024 the first informant was allegedly accosted in front of Super Market at Mirza Galib Road by two assailants, namely, Wakar Master and Guddu resident of Abbas Nagar, and three unknown persons. He was assaulted by means of iron shock absorber and base ball bat. The first informant sustained grievous injuries on his leg. The assailant Wakar allegedly also fired at the first informant.

5. The learned counsel for the applicant submitted that the first informant had named the applicant as the alleged conspirator on account of the disputes between the parties. At the time of alleged occurrence the applicant was not present. Nor any role has been attributed to the applicant. He has been simply named as the person at whose instance the first informant was allegedly assaulted. Attention of the Court was invited to the copies of the complaints in the civil suits between the parties.

6. The learned APP seeks time to take instructions as the investigating officer is not present.

7. Mr. Sahoo, the learned counsel submits that he has instructions to appear on behalf of the first informant and undertakes to file vakalatnama and intervention application.

8. Prima facie, from the perusal of the allegations in the FIR, it does not appear that the applicant was present at the time of the

alleged occurrence. The role attributed to the applicant is that of being a conspirator. Prima facie, it appears that the first informant has levelled a general allegation that the applicant had visited the disputed property and threatened to eliminate the first informant. The material on record indicates that there have been disputes between the parties since the year 2020-21 and civil proceedings have been instituted.

9. In the circumstances, till the matter is heard after providing an opportunity to the prosecution and the first informant, the liberty of the applicant deserves to be protected.

10. Thus, in the event of arrest in C.R. No. 15 of 2024 registered at Malegaon City police station, the applicant be released on bail on furnishing a P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

11. The applicant shall cooperate with the investigation and attend Malegaon City police station, on 6th, 7th and 8th March, 2024 between 10 am to 1 pm and, thereafter, as and when directed.

12. Applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

Stand over to 28th March, 2024.

(N. J. JAMADAR, J.)