

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

ANTICIPATORY BAIL APPLICATION NO. 1651 OF 2024

Sharad Uttam Ahire

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Amin Solkar a/w Ms. Kavisha Khanna, for the Applicant.
- Mr. Bapu V. Holambe-Patil, APP for the State.

CORAM : MANISH PITALE, J.

DATE : 25th JUNE, 2024.

P. C. :

1. Heard, Mr. Amin Solkar learned counsel for the Applicant and Mr. Bapu Holambe-Patil, learned APP for the State.

2. By this application, the applicant seeks anticipatory bail as he apprehends arrest in connection with First Information Report No.0304 of 2023 (FIR) dated 31st October, 2023, registered at Police Station Deola, District Nashik, for the offences under Sections 307, 143, 147, 148, 149, 323, 324, 326, 504 and 506 of the Indian Penal Code (IPC).

3. The informant gave a statement leading to registration of the FIR against 14 accused persons, including the applicant before this Court. In the statement the informant specifically described the role of the applicant as one of the three accused persons armed with sticks, who assaulted the victims. The statement of the injured victims were also recorded during the course of

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investigation and they have also specifically described the active role of the applicant during the course of the incident. The injury certificates indeed show grievous head injuries caused as the result of the said assault.

4. The learned counsel for the applicant submitted that the applicant had moved two applications for grant of anticipatory bail. The first application was decided along with such applications filed by other accused persons. The same was rejected on 08th November, 2023 and after the charge-sheet was filed, the applicant moved the subsequent anticipatory bail application, which came to be rejected on 24th January, 2024. It is submitted that since the charge-sheet is now filed and the entire material is before the concerned Court, which does not indicate any active role on the part of the applicant, this Court may consider allowing the present application. It is also submitted that the applicant suffers from spondylitis and considering the state of his health, this Court may favourably consider the prayer made in the present application.

5. On the other hand, learned APP has opposed the prayer for grant of anticipatory bail. It is brought to the notice of this Court that other accused persons were arrested and their applications for regular bail were subsequently allowed. The applicant continued to evade the process of law and he remained absconding, this fact being specifically noted by the Sessions Court, while rejecting the second bail application of the applicant. It is submitted

that considering the active role of the applicant specifically described by the informant and the injured eye witnesses, no indulgence may be shown to the applicant.

6. In the present case, the incident occurred as far back as on 31st October, 2023 and on the same day, the FIR was registered. The statement of the informant describes in sufficient detail the role of the applicant as having assaulted the victim by using wooden stick along with other accused persons who were also armed with sticks and rods. The statements of the two injured victims are also on record, which indeed show the active role of the applicant. The injury certificates correspond with the statements made by the said witnesses and it is recorded that grievous head injuries were suffered by the victims.

7. It is significant to note that the said anticipatory bail application of the applicant was rejected by the Sessions Court, as far back as on 08th November, 2023. Thereafter, some of the accused persons were arrested on 06th December, 2023 and they moved applications for grant of regular bail. Eventually, their regular bail applications were allowed on 06th January, 2024. Yet, the applicant remained absconding and after the charge-sheet was filed, he moved a fresh anticipatory bail application, which was rejected by the order of the Sessions Court dated 24th January, 2024.

8. A perusal of the said order shows that the applicant was absconding and evading the process of law. It was also recorded that the FIR as well as statements of the witnesses show the active participation of the applicant in the said incident.

9. This Court is of the opinion that in the facts of the present case, the applicant appears to have evaded the process of law successfully from the date when the FIR was registered as far back as on 31st October, 2023. The fact that the co-accused persons were granted regular bail cannot inure to the benefit of the applicant, who is found to have evaded the process of law and has remained absconding for a long period of time. The filing of the charge-sheet can also not inure to the benefit of the applicant, who has not joined the legal process and has remained absconding. The active role of the applicant is evident from the statements of the injured witnesses, as well as the statement of the informant, which correlates with the injury certificates on record. Granting indulgence to such an applicant would amount to giving premium to an accused, who has absconded and evaded the process of law.

10. In view of the above, no substance is found in the present case. Accordingly, it is dismissed.

(MANISH PITALE, J.)