

(This order is corrected as per speaking to the minutes of the order dated 14.08.2024)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1679 OF 2024**

Kirtikumar Bhivlal Lilare	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Satyavrat Joshi (through video-conferencing), i/b. Yash Ganesh Fadtare for applicant.

Ms. Rutuja A. Ambekar, APP for respondent-State.

Mr. Ajit Kakade, Police Station Chikhali, District Pimpri-Chinchwad.

CORAM : MANISH PITALE, J.

DATE : 27th JUNE, 2024

P.C. :

. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. The applicant is one of the three accused persons. He has approached this Court as he apprehends arrest in connection with FIR No.0282 of 2024 dated 13.05.2024 registered at Police Station Chikhali, District Pimpri-Chinchwad for offences under Sections 307, 323 and 504 read with 34 of the Indian Penal Code, 1860, Sections 3 and 25 of the Arms Act, 1959 and Sections 37(1) and 135 of the Maharashtra Police Act, 1951.

3. As per the informant, on 12.05.2024, the applicant alongwith the accused persons, confronted him and questioned him for having opened a shop in the vicinity. In that connection, it is alleged that the applicant alongwith the accused Shamling, assaulted the informant by hands.

Thereafter, they allegedly held him from two sides and co-accused Harshal took out a gun and fired at the informant. The gun shot missed the informant. The second gun shot, instead of hitting the informant, hit the applicant himself in the neck.

4. The learned counsel for the applicant submits that the applicant himself was injured in the incident and even as per the informant, the role of the applicant was limited to assaulting the informant by using his hands. It is not even alleged that the applicant had used the firearm. It is further emphasized that due to the bullet injury suffered in the neck, the applicant had to undergo surgery and that he has been advised further surgery, which is a factor this Court may take into consideration.

5. On the other hand, the learned APP submits that the role of the applicant was not limited to assaulting the informant by using his hands, but he and the other co-accused persons, had restrained the informant, thereby facilitating the co-accused Harshal to fire gun shots at the informant. According to the learned APP, this was a preplanned attack in which the applicant was actively involved. As regards the medical condition, this Court may consider allowing the investigating authorities to conduct a medical checkup of the applicant in Government hospital to report to this Court as regards the actual health status of the applicant.

6. Having heard the learned counsel for the applicant and the learned APP and upon perusal of the statement of the informant, which led to registration of FIR, this Court is of the opinion that the applicant cannot claim that his role was limited to assaulting the informant by his hands and that beyond doing such an activity, he had no other role to play. The

statement of the informant clearly shows that the applicant alongwith the co-accused Shamling, assaulted the informant by hands, held him from both sides and thereupon, the co-accused Harshal took out a gun and fired at the informant. *Prima facie*, it appears that the applicant was involved in ensuring that the informant was restrained, so that the co-accused person could fire gun shots at the informant.

7. But, this Court cannot be oblivious of the health condition of the applicant. The documents on record indeed show that he suffered the bullet injury in his neck. The documents on record show entry and exit wounds and the fact that the applicant had to undergo surgery.

8. Certificate issued by the doctor on 13.06.2024 states that the applicant may need to undergo further surgery. In this situation, while keeping the present application pending, this Court is inclined to grant interim relief to the applicant.

9. In view of the above, the following interim order is passed:

- (i) Till the next date, in the event the applicant is arrested in connection with FIR No.0282 of 2024 dated 13.05.2024 registered at Police Station Chikhali, District Pimpri-Chinchwad for offences under Sections 307, 323 and 504 read with 34 of the Indian Penal Code, 1860, Sections 3 and 25 of the Arms Act, 1959 and Sections 37(1) and 135 of the Maharashtra Police Act, 1951, he shall be released on bail on furnishing PR Bond of ₹ 50,000/- (Rupees Fifty Thousand only) and one or two sureties in the like amount to the satisfaction of the trial Court;
- (ii) the applicant shall remain present before the Investigating Officer on 01.07.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when the Investigating Officer calls upon him to remain present;

- (iii) the Investigating Officer would be at liberty to arrange for medical checkup of the applicant in Government hospital, so that his health status can be reported to this Court on the next date of listing;
- (iv) the applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case;
- (v) the applicant shall co-operate with the investigation and also in the proceedings before the trial court.

10. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

11. List the application for further consideration on 20.09.2024, High on Board.

(MANISH PITALE, J)

Digitally
signed by
Priya Kambli
DN: cn=Priya Kambli,
o=PRIYA KAMBLI, ou=, c=IN
Priya Kambli