

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1695 OF 2024**

Devendra Shivajirao Jondhale	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. A. P. Mundargi, Senior Advocate, a/w. Mr. Jayant J. Bardeskar for the applicant.

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

Mr. Aabad Ponda, Senior Advocate, a/w. Ms. Sayee Sawant, i/b. Vidhii Partners for the first informant.

Mr. Lahu Thate, API, Police Station Otur, District Pune Rural.

**CORAM : MANISH PITALE, J.
DATE : 28th JUNE, 2024**

P.C. :

1. Heard learned senior counsel appearing for the applicant, learned APP for the respondent-State and the learned senior counsel having instructions to appear on behalf of the first informant.

2. In the present case, the applicant is apprehending arrest in connection with FIR No.0208 of 2024 dated 24.05.2024 registered at Police Station Otur, District Pune Rural for offences under Sections 452, 324, 323, 504, 506, 143, 144, 147, 148 and 149 of the Indian Penal Code, 1860 (IPC) and Sections 4 and 25 of the Arms Act, 1959.

3. The FIR has been registered on the statement of the informant, who described the incident in question, which occurred on 24.05.2024 just past midnight. According to the informant, he and his associates had visited the

farmhouse, where the incident took place, in order to take possession of the same as the accused persons had dispossessed an individual, who was kept in the farmhouse by Vighnaharata Trust, which is said to be the owner of the farmhouse. It is stated that the the informant and his associates were occupying the farmhouse. The applicant and other persons arrived at the spot and sought to dispossess them. As a result, there was altercation and during the altercation, the applicant assaulted the informant with a chopper causing injury to his forearm. On this basis, the aforesaid offences have been registered.

4. The learned senior counsel appearing for the applicant submits that in respect of the incident in question, there are cross FIRs. It is submitted that one of the accused persons in the present case, had also approached the police and on that basis, cross FIR was registered on the same date and that the said two FIRs have been registered one after the other. It is submitted that the FIR registered at the behest of the co-accused person in this case, narrates the sequence of events, indicating that the informant and his associates had indulged in violence.

5. The learned senior counsel submitted that there is a background to the incident, in the sense that a family dispute had arisen and that the father of the applicant was a trustee in Vighnaharata Trust and that there are ongoing litigations in respect of such disputes. There are competing claims with regard to the possession and rights in immovable properties, including the said farmhouse.

6. It is submitted that in the backdrop of such family disputes, the claims made by the informant are clearly exaggerated. In any case, it is submitted

that even as per the informant, he and his associates were engaged to take possession of the farmhouse and to throw out the persons, who were in possession of the same. In the light of the cross FIRs registered in the present case, it is submitted that this Court may consider the incident in question, as the result of the altercation between the two groups of persons and that the informant in the present case has obviously made exaggerated claims. It is submitted that the applicant is willing to abide by conditions that this Court may impose and that the present application may be allowed.

7. The learned APP submits that the applicant and the co-accused persons were aggressors in the incident in question. They reached the farmhouse and started the quarrel, resulting in injuries to the informant and others. It is submitted that after the applicant escaped in one of the vehicles, upon search of other vehicles belonging to the associates of the applicant, a sharp *koyta* was recovered, thereby indicating that the applicant and the co-accused persons had acted in a preplanned manner, in order to unleash the assault on the informant. It is further submitted that the applicant has criminal antecedents inasmuch as a case is pending in a competent Court at Kalyan for offences under Sections 406, 420, 471 and 120-B of the IPC. On this basis, it is submitted that no indulgence may be shown to the applicant.

8. The learned senior counsel for the first informant submitted that the applicant and his group are enjoined by a competent Civil court from dealing with the property in question and their very presence at the farmhouse in the middle of the night in a preplanned manner, shows that they were the aggressors and that in the process of trying to throw out the informant and his associates from the farmhouse, a violent attack was unleashed. This resulted in bodily injuries to the informant by means of a

chopper. Recovery of *koyta* from the vehicle belonging to the associates of the applicant, further indicates the intention of the applicant. Such persons and particularly the applicant, who is attributed the role of having used chopper, ought not to be shown any indulgence, as the applicant has shown scant regard for the rule of law. It is urged that if at all this Court is inclined to grant relief, the applicant ought to be restrained from visiting the aforesaid farmhouse.

9. This Court has considered the rival submissions in the backdrop of the material available on record. It is clear that in respect of the incident in question, there are cross FIRs. Both the groups have approached the police leading to registration of the two FIRs, in which the groups have given their respective versions of the same incident. It appears that the applicant and his associates claim rights in the farmhouse and there are indeed civil disputes pending regarding the said matter.

10. The informant has himself stated in his statement leading to registration of the subject FIR that he contacted his associates in the morning of 23.05.2024 as two families residing in the farmhouse were to be thrown out and possession was to be taken. Thereafter, the sequence of events is described and allegations have been made against the applicant and the co-accused persons. The narration of events indicates that the informant and his associates appear to have been engaged for the purpose of throwing out certain persons in possession of the farmhouse. Even if the contention raised on behalf of the informant that the applicant and others associated with him are enjoined by an order of competent Civil court from entering into the farmhouse and that two families residing in the farmhouse were to be thrown out, is to be accepted, the impression that this Court has gathered is

that the informant and his associates went to the farmhouse and told the two families staying in the farmhouse to leave the premises and that they in turn, took possession of the same. As to whether they were engaged by Vighnagarata Trust, being owner of the farmhouse, to take its possession or in what capacity they visited the farmhouse, is a matter that would be further investigated. Nevertheless, it is clear from the statement of the informant himself that neither he personally nor his associates claim any right in the farmhouse in question.

11. In this backdrop, when the incident is appreciated, it becomes clear that the accused persons in the present case, upon visiting the farmhouse, were confronted by the informant and his associates, leading to the altercation. As to what happened and which of the persons of the two groups were injured in violence, would be clear on further investigation in both the FIRs. In the statement of the informant itself, it is recorded that they were constrained to throw utensils at the applicant and his associates, when they came to throw out the informant and his associates from the farmhouse. The narration of the incident itself gives an impression that the altercation occurred, in which both the groups attacked each other, resulting in injuries.

12. The injury suffered by the informant, as per injury report, is a simple injury on his forearm. The recovery of *koyta* from one of the vehicles in which, the associates of the applicant had allegedly reached the spot, has been emphasized upon by the learned APP and the learned senior counsel appearing for the informant. That in itself cannot be a ground to deny bail, for the reason that the said *koyta* was evidently not used in the incident.

13. The emphasis on alleged preplanning by the applicant and his

associates, would equally apply to the informant and his associates, even going by the narration of events in the statement of the informant.

14. As regards the criminal antecedents of the applicant, the only other criminal case pending against him is for offences under Sections 406, 420, 471 and 120-B of the IPC. Such offences do not pertain to any bodily injuries inflicted on any person. *Prima facie*, it cannot be said that the applicant is a person having propensity towards violence. The background of the incident indicates that pending civil disputes arising from family disputes, have resulted in the altercation, due to which cross FIRs have been registered.

15. As long as the applicant is ready to co-operate with the investigation, he deserves relief in the present application.

16. In view of the above, the application is allowed in the following terms:

- (i) In the event the applicant is arrested in connection with FIR No.0208 of 2024 dated 24.05.2024 registered at Police Station Otur, District Pune Rural for offences under Sections 452, 324, 323, 504, 506, 143, 144, 147, 148 and 149 of the IPC and Sections 4 and 25 of the Arms Act, 1959, 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) Till filing of chargesheet, the applicant shall not enter the jurisdiction of Police Station Otur, District Pune Rural.

- (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.

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

18. Needless to say, the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

19. The application stands disposed of.

(MANISH PITALE, J)

Priya Kambli