

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1723 OF 2024

Shabbir Sharif Kureshi ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Gaurav Parkar a/w. Mr. Shantanu Kadam for Applicant.
Ms. Megha S. Bajoria, APP for Respondent-State.
Mr. Santosh Hiranman Bhundere, Alibaug Police Station.

CORAM : MANISH PITALE, J.
DATE : JULY 03, 2024

P.C. :

1. Heard Mr. Parkar, learned counsel for the applicant and Ms. Bajoria, learned APP for the respondent-State.

2. In this case, the applicant is apprehending arrest in connection with FIR No.0135 of 2024 dated 31.05.2024 registered at Alibaug Police Station, District - Raigad, for offences under Sections 143, 147, 148, 324, 341 and 385 of the Indian Penal Code, 1860 (IPC). Subsequently, offence under Section 326 of the IPC was added, which is a non-bailable offence.

3. This Court is informed that since, initially, only bailable offences were registered, the applicant was on bail. Upon offence under Section 326 of the IPC being added, the applicant along with the other accused persons applied for anticipatory bail. By an order dated 21.06.2024, the Sessions Court granted anticipatory bail to the other co-accused persons, but rejected the prayer of the applicant, on the ground that specific overt act was attributed to the applicant.

4. The learned counsel for the applicant submits that this is a case of

cross FIRs being registered in respect of the same incident, which occurred on 31.05.2024. It is submitted that since the applicant himself was injured in the incident and he had to take treatment, the FIR at his behest was registered a few hours after the subject FIR.

5. It is submitted that the applicant and his associates cannot be said to be the aggressors and it was only when the applicant was assaulted that, in order to defend himself, he had to take some action resulting in registration of the offences against him and his associates.

6. The learned APP has produced copy of the injury certificate stating that the victim, in the present case, has suffered grievous injury on the head and this is relatable to the use of 'fighter' by the applicant. The role of the applicant is specifically stated in the statement leading to registration of the FIR. It was brought to the notice of this Court that against the applicant, as many as six cases are registered, including the one for the offence under Section 307 of the IPC.

7. In response, the learned counsel for the applicant submits that he has been acquitted in few of the aforesaid cases, but the case pertaining to offence under Section 307 of the IPC is indeed pending against him.

8. This Court has considered the material on record. The fact that the applicant himself has caused the cross-FIR to be registered establishes the fact that he was indeed present at the place and time of the incident. The statement of the informant leading to registration of the FIR shows that the applicant was present at the spot of the incident and that, he and his associates took out the keys of the vehicle in which the informant and his associates were travelling. The informant and his associates were thereafter pulled out of the vehicle by the applicant and his associates and then the applicant allegedly assaulted the brother of the informant with the fighter, resulting in grievous injury to his head.

9. It is significant to note that in the statement of the applicant himself, which led to registration of the cross FIR, he concedes to the fact that he took out the keys of the vehicle of the informant. What may have happened in the scuffle is a matter of investigation, but at this point in time, the injury report produced for the perusal of this Court does show head injury to the brother of the informant, which is relatable to the specific overt act alleged against the applicant. It is perhaps for this reason the Sessions Court rejected the prayer of the applicant for anticipatory bail, while granting relief to the co-accused persons. Additionally, the applicant does have criminal antecedents, including the case in which offence under Section 307 of the IPC is registered against the applicant.

10. In view of the above, no case is made out for anticipatory bail. The application is rejected.

(MANISH PITALE, J.)

Minal Parab