

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

ANTICIPATORY BAIL APPLICATION NO. 1787 OF 2024

Pradeep Rajpoot

...Applicant

Versus

State of Maharashtra

...Respondent

Mr.Kamran S. Shaikh a/w Farukh Shaikh, Advocate for the Applicant.

Mrs. Mahalaxmi Ganapathy, APP for the Respondent – State.

CORAM : N. J. JAMADAR, J.

DATE : 22nd JULY 2024.

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PC.:

1. Heard the learned Counsel for the applicant and the learned APP for Respondent-State.
2. This is an application for pre-arrest bail in connection with C.R. No.727 of 2023, registered with Hinjwadi Police Station, Pimpri-Chinchwad, for the offences punishable under Sections 307, 324, 323, 504, 506, 141, 143, 147, 148 and 149 of the Indian Penal Code, 1860 (“the Penal Code”), Sections 37(1) and 135 of the Maharashtra Police Act, 1951 and Sections 4 and 27 of the Arms Act, 1959.
3. At the outset, the learned Counsel for the applicant, submitted that the applicant is similarly circumstanced like the co-accused, Jalaluddin N. Shaikh to whom pre-arrest bail has been granted by this

Court by an order dated 31st October 2023. The applicant is neither named in the FIR nor he is seen in the CCTV footages. Therefore, the applicant is entitled to the same dispensation as that granted to the co-accused Jalaluddin Shaikh. While releasing Jalaluddin Shaikh, this Court had observed, *inter alia*, as under:

“3. The applicant and the co-accused who were unknown to the first informant, were allegedly assaulting another person. The first informant tried to persuade those assailants not to assault the said person. Thereupon those assailants charge upon the first informant and thereafter fled away.

4. At about 10.30 pm. the assailants again came armed with weapons and started to assault the first informant. He was assaulted by means of scythe, wooden sticks, bottles and the articles which were lying in Shiva Motors, wherein the first informant had entered into to save himself. Hence, the first informant lodged report against seven to eight unknown persons.

5. The learned Counsel for the applicant submitted that the applications are of omnibus nature. The applicant has been roped in on the basis of the CCTV footage. The applicant was allegedly armed with a scythe. However, the first informant had not sustained any injury by a sharp weapon. Attention of the Court was invited to the injury certificate of the first informant.

6. The learned APP submitted that the applicant has admitted his role in the statement before the police, recorded while he was on interim bail. The said statement cannot be taken into account even at this stage. I have perused the injury certificate. It seems that the first informant had sustained five CLW. All injuries are designated as simple. It does not appear that the first informant had sustained any cut injury. All the injuries were allegedly caused by hard and blunt object. In the aforesaid view of the matter, as the FIR was lodged against unknown assailants and the first informant was not the person to whom the unknown assailants were initially assaulting, the question as to whether the applicant also shared the common object to cause grievous hurt to the first informant or knew that the said offences would be committed in prosecution of the common object of the unlawful assembly, would warrant adjudication at the stage of trial. I am, therefore, inclined to exercise the discretion in favour of the applicant.”

4. The learned APP submitted that there is material on record in the nature of supplementary statements of the first informant which implicates the applicant. However, it would be a difficult to draw a distinction between the role attributed to the applicant and the co-accused Jalaluddin Shaikh, who has been released on pre-arrest bail.

5. I have perused the material on record. *Prima facie* it appears that there is no qualitative difference between the role attributed to the applicant and Jalaluddin Shaikh. It appears that Jalaluddin Shaikh was identified on the basis of images in the CCTV footages. Even that does not seem to be the case qua the applicant. I am, therefore, inclined to exercise discretion in favour of the applicant.

ORDER

- (i) Application stands allowed;
- (ii) In the event of arrest of the applicant in connection with C.R. No.727 of 2023, registered with Hinjwadi Police Station, Pimpri-Chinchwad, for the offences punishable under Sections 307, 324, 323, 504, 506, 141, 143, 147, 148 and 149 of the Indian Penal Code, 1860 (“the Penal Code”), Sections 37(1) and 135 of the Maharashtra Police Act, 1951 and Sections 4 and 27 of the Arms Act, 1959, the applicant be released on bail on

executing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

(iii) The applicant shall co-operate with the investigation and attend Hinjwadi police station, on 30th and 31st July, 2024 in between 10.00 am to 1.00 pm. and thereafter as and when directed.

(iv) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

(v) The application stands disposed.

(N. J. JAMADAR, J.)