

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2008 OF 2024**

Samadhan @ Bala Bhausahab Barde	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Ajinkya Vilas Taskar a/w. Mr. Anant V. Taskar for applicant.

Mr. Prasanna P. Malshe, APP for respondent-State.

Mr. Anil L. Wagh, API, Pimpalgaon Police Station, District Nashik Rural.

**CORAM : MANISH PITALE, J.
DATE : 09th AUGUST, 2024**

P.C. :

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

2. The applicant apprehends arrest in connection with FIR No.0102 of 2024 dated 22.04.2024 registered at Pimpalgaon Police Station, District Nashik Rural for offences under Sections 143, 147, 148, 149, 307, 323, 324, 427, 452, 504 and 506 of the Indian Penal Code, 1860.

3. The informant named three persons in the FIR with regard to an incident that took place on 21.04.2024, where an assault was allegedly carried out by 10-12 persons armed with sticks and iron rods, which resulted in injuries to at least two victims during the course of the incident. It is brought to the notice of this Court that the accused, whose name is stated at Sr. No.1 in the FIR, has been granted regular bail by the Sessions Court.

While granting bail to him, the Sessions Court observed that the injuries did not require sustained medical treatment for the victims.

4. The learned counsel for the applicant submits that in the first place, the applicant is not named in the FIR. Even in the supplementary statement recorded after two days of registration of FIR, his name is generally taken alongwith the names of a number of other persons and that no specific overt act is alleged against the applicant in the said statement.

5. He submitted that in such circumstances, when the applicant is a 20-year old boy and he does not have any criminal antecedents, this Court may allow the present application, as the applicant undertakes to co-operate with the investigation.

6. On the other hand, the learned APP submitted that presence of the applicant is made out by the supplementary statement read with the first statement of the informant, which led to registration of FIR. Since unlawful assembly has been invoked in the present case, presence of the applicant is enough to show his involvement with regard to the assault. He submitted that the injury certificates show grievous injuries suffered by the victim, including fractures. On this ground, it is submitted that this Court may not allow the present application.

7. A perusal of the statement of the informant, leading to registration of FIR, shows that while three persons have been specifically named, whose names are also reflecting in the FIR, a general allegation is made that 10-12 persons armed with sticks and rods, carried out the assault. The name of the applicant does not feature in the aforesaid statement given by the informant.

Two days later, the supplementary statement of the informant was recorded on 24.04.2024, wherein for the first time, the name of the applicant is taken alongwith names of a number of other persons. Here again, there is no mention of any specific overt act against the applicant, much less any act involving use of weapon like iron rod.

8. In such circumstances, although the injury certificates do show grievous injuries suffered by the two victims, this Court is of the opinion that absence of name of the applicant in the statement of the informant, which led to registration of FIR and inclusion of his name only in the supplementary statement without any overt act being attributed, indicates a *prima facie* case in his favour. The application deserves to be allowed as the applicant has undertaken to co-operate with the investigation.

9. In view of the above, the application is allowed on the following terms:

- (i) In the event the applicant is arrested in connection with FIR No.0102 of 2024 dated 22.04.2024 registered at Pimpalgaon Police Station, District Nashik Rural, he shall be released on bail on furnishing PR Bond of ₹ 25,000/- and one or two sureties in the like amount;
- (ii) the applicant shall remain present before the Investigating Officer on 12.08.2024 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 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;
- (iv) 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. It is also clarified that 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.

12. The application stands disposed of.

(MANISH PITALE, J)

Priya Kambli