

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2152 OF 2024**

Sahebu Sukhdev Koli	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Ravishankar B. Thombare a/w. Mr. Paras Yadav for applicant.

Ms. Rutuja Anil Ambekar, APP for respondent-State (through video-conferencing).

Mr. S. H. Khade, PSI, Bhosari Police Station, District Pimpri-Chinchwad.

**CORAM : MANISH PITALE, J.
DATE : 21st AUGUST, 2024**

P.C. :

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

2. The applicant is apprehending arrest in connection with FIR No.0363 of 2024 dated 03.06.2024 registered at Bhosari Police Station, District Pimpri-Chinchwad for offences under Sections 307 and 341 of the Indian Penal Code, 1860.

3. According to the informant, on 02.06.2024 at about 05:30 p.m., there was a scuffle between the applicant and the informant. Thereafter, allegedly at 06:00 p.m. on the same day, the applicant again confronted the informant and used a knife (*kukri*) to cause injury to the informant. It is claimed that when the informant sought to avoid the blow, he was injured on his shoulder.

4. The learned counsel for the applicant submitted that this is a case of cross-FIRs and that the subject FIR is more in the nature of counterblast and an after-thought on the part of the informant. Reference is made to earlier FIR No.0361 of 2024 dated 02.06.2024, registered at the very same police station, with regard to the incident in question. It is submitted that the informant therein is the friend of the applicant whose name is stated by the informant herein in his statement, while describing the incident. It is submitted that it was the informant who had assaulted the applicant by way of knife (*kukri*). In the assault, the applicant suffered head injury and he had to take treatment. Copy of the discharge summary issued by Anand Multispeciality Hospital is tendered. The same is taken on record and marked 'X'.

5. It is submitted that since the informant was the assailant, this Court may consider allowing the present application, as the applicant undertakes to co-operate with the investigation.

6. The documents on record clearly show that there are two versions of the very same incident. The FIR in which the informant herein i.e. Adil Shaikh has been arraigned as accused, was registered prior in point of time. It was registered on 02.06.2024 at 23:53 hours bearing FIR No.0361 of 2024. The subject FIR in which the applicant is arraigned as accused, was registered on the next day i.e. on 03.06.2024 at 17:06 hours bearing FIR No.0363 of 2024.

7. As to what actually happened on the date and time of the incident, is a matter of investigation in the two FIRs. But, the discharge summary tendered

on behalf of the applicant indeed shows that the applicant was admitted in hospital with head injury and he was discharged 5 days later. In the history of the discharge summary, the assault has been described in the same manner in which it is stated by the friend of the applicant in his statement, which led to registration of the said FIR No.0361 of 2024 dated 02.06.2024.

8. On the other hand, the learned APP opposed the prayer made in the present application, by relying upon the statement of the informant, which led to registration of the subject FIR. Investigation papers were produced to rely upon the injury certificate pertaining to the informant herein i.e. Adil Shaikh, which shows an abrasion on the shoulder of the informant. It appears to be a simple injury, whereas the applicant had indeed suffered grievous injury on his head and it is alleged by the applicant on the basis of the statement given by his friend Tushar Dhende, that in the first place, the weapon was used by the informant herein i.e. Adil Shaikh. It is significant to note that the presence of the said friend is confirmed by the statement of the informant himself, which led to registration of the subject FIR No.0363.

9. Considering the said material on record, this Court is of the opinion that a *prima facie* case is made out by the applicant to the effect that the informant appears to be an assailant himself and in the process, while the informant suffered simple injury on his shoulder, the applicant suffered serious injury on his head, when the incident occurred.

10. Since the applicant undertakes to co-operate with the investigation, a case is made out by the applicant for granting anticipatory bail.

11. 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.0363 of

2024 dated 03.06.2024 registered at Bhosari Police Station, District Pimpri-Chinchwad, he shall be released on bail on furnishing PR Bond of ₹ 25,000/- with 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 23.08.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when the Investigating Officer calls upon 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.

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

13. 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.

14. The application stands disposed of.

(MANISH PITALE, J)

Priya Kambli