

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

**ANTICIPATORY BAIL APPLICATION NO. 2364 OF 2024**

Sagar Shivaji Palve

...Applicant

**Versus**

The State of Maharashtra

...Respondent

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- Mr. Vrushabha Salve, for Applicant.
- Mr. Tanveer G. Khan, APP for Respondent.

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**CORAM : MANISH PITALE, J.**

**DATE : 19<sup>th</sup> SEPTEMBER, 2024.**

**P. C. :**

1. Heard, Mr. Salve, learned counsel for the applicant and Mr. Khan, learned APP for the respondent – State.

2. The applicant apprehends arrest in connection with First Information Report No.0643 of 2023, dated 24.12.2023, registered at Police Station Paud, District Pune, for offences under Sections 506, 504, 149, 148, 147, 143, 452, 427, 341, 326, 324, 323 and 307 of the Indian Penal Code, 1860 (IPC); Section 4 and 25 of the Arms Act, 1959 and Sections 3 and 7 of the Criminal Law Amendment Act, 2013.

3. The informant in the present case approached the police describing an incident alleged to have taken place on the previous day i.e. 23.12.2023, whereby the two named accused persons in the FIR had assaulted him with an axe and *koyata*. According to the informant, he suffered serious

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injuries. Thereafter, it is stated that on the next day i.e. 24.12.2023 in the morning another person living in the neighbourhood enquired about the injuries suffered by the informant and in that process also described an incident said to have taken place in the evening on the previous day i.e. 23.12.2023, when the named accused persons alongwith about 5 unknown persons had inflicted violence on the victim named in the said statement. Thus, in the present case it appears that one incident is described by the informant, wherein he was injured and the other incident is described on the basis of information given to him by a person in the neighbourhood.

4. The learned counsel for the applicant submits that while two accused persons have been specifically named and overt acts have been attributed against them, including use of weapons, the applicant is nowhere named in the FIR. It is further submitted that the name of the applicant is featured in the statement given by few witnesses and these statements also, at the most, show the presence of the applicant during one of the incidents. There is no overt act attributed to the applicant and it is not even alleged that he participated in the violence that was inflicted on the victims.

5. It is indicated that the informant in the present case is the cousin brother of the father of the applicant and therefore, if the applicant was really present at the date and time of the incident, he would have been identified by

name instead of being described as one of the unknown persons. It is further submitted that the charge-sheet shows injury certificates pertaining to other victims, but there is no injury certificate pertaining to the informant, who claims to have suffered injuries during the incident in question. It is submitted that the applicant is ready to cooperate with the investigation and hence, this Court may consider allowing the application.

6. On the other hand, learned APP submits that the statements of the witnesses recorded during the course of investigation do indicate the presence of the applicant. Merely because he was not named in the FIR cannot inure to the benefit of the applicant and since the provisions pertaining to unlawful assembly have been invoked in the present case, presence of the applicant at the date and time of the incident is sufficient to indicate his involvement and therefore, relief may not be granted.

7. This Court has considered the material on record in the light of the rival submissions. The applicant is nowhere named in the FIR and the overt acts alongwith use of weapons have been attributed to the two named accused persons.

8. It appears that even the presence of the applicant in the incident involving injuries suffered by the informant, is rendered doubtful. As regards the other incident which is described in the statement of the informant, in the

first place, it appears to be based on hearsay as the description of the incident is attributed to a person in the neighbourhood, who allegedly told about the incident to the informant. In the said description of the incident also, the applicant has not been named, while there is reference to presence of 5 unknown persons. The statement of one of the witnesses recorded during the course of investigation only reveals that according to her, the applicant was present and he was standing at the site when the incident took place. There is no allegation of overt act against the applicant, much less any allegation of use of any weapon. In such a situation, the applicant has made out *prima facie* case in his favour to claim that he is being roped in by the investigating authority, based on statements that do not really attribute any specific role to the applicant. Mere reference to the presence of the applicant ought not to be held against him, so long as he is ready to cooperate with the investigation. Considering the said circumstances, this Court is inclined to allow the present application.

9. Accordingly, the applicant is allowed in the following terms :

- (A) In the event the applicant is arrested in connection with FIR No.0643 of 2023, dated 24.12.2023, registered at Police Station Paud, District Pune, 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.

- (B) The applicant shall remain present before the Investigating Officer on 24<sup>th</sup> September, 2024 between 10:00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.
- (C) The applicant shall cooperate with the investigation.
- (D) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

10. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail.

11. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the Trial Court shall proceed further, without being influenced by the observations made in this order.

12. The application is disposed of.

(MANISH PITALE, J.)