



Order below Exh.1 in Criminal Anticipatory Bail
Application No. 1259/2022.

1. This is an application for anticipatory bail under Section 438 of Cr.P.C. in C.R. No. I-456/2022 registered in Ambad Police Station, Nashik against applicant Amol Kashinath Hiwale for the offence punishable under section 326, 504 r/w section 34 of the Indian Penal Code and section 135 of Maharashtra Police Act.

2. In short it is the case of the prosecution that in front of Bhor township in front of the office of Sachin Bhor. Complainant and his friends went to see Dandiya at that time Samadhan Bokad, Bunty Wagh, Amol Hiwale on the count of old quarrel started abusing Rahul Prasad as well as by some sharp weapon assaulted on his left eye on the face and right leg and cause serious injury. Hence, the complaint.

3. It is contended by the accused that he is permanent of the address. On considering the FIR it reflects that complainant has not caused any type of assault. On the count of earlier old quarrel he has been falsely implicated in the present crime. Complainant has also implicated co-accused Amol by contending that he was present at the spot, however, at that time he was at Trimbak which can be verified from CCTV footage. The said spot is at distance of 10 k.m. which reflects that he has been falsely implicated. Complainant has been discharged and is conducting his day to day work properly. Complainant has not sustained grievous injury to attract section 326 of IPC. He is ready to abide by the terms and conditions. Hence, prayed that bail be granted.

4. Say was called of the investigating officer. He has objected this application on the count that, eye witnesses have seen them committing the offence. Injured has taken treatment at civil hospital and certificate reflects that grievous injury has been caused to him. Clothes are to be seized. There is involvement of Chandresh Vishwakarma and Wahid Shaikh. Accused persons have committed the offence by using the sickle, chopper and pieces of brick. They have to seize chopper and vehicle. Statement of the witnesses are yet to be recorded. They have to inquire about the involvement of any other accused. Hence, prayed that application be rejected.

5. Heard arguments of Ld.Adv. for the accused and Ld. APP for the State. It is contended by the advocate of the accused that he had been falsely implicated in this offence. At the time of incident he was not present. In fact, he was at Jai Yogeshwar Mobile Shoppee, Tryambak. CCTV footage support his contention. Medical certificate does not reflect that the injuries are grievous in nature to attract offence u/s. 326 of the IPC. At the most offence u/s. 325 of the IPC is applicable which is bailable. Nothing has to be recovered from them. Hence, prayed that pre-arrest bail be granted.

6. On the other hand Ld. APP has objected this application on the count that investigation is pending, accused was present at the scene of offence alongwith Chandresh Vishwakarma and Wahid Shaikh. Hence, it cannot be said that accused was not present at the spot. Weapons and the vehicle used in the offence are yet to be recovered. Hence, prayed that application be rejected.

7. On perusing the FIR it is seen that the name of the present applicant are stated. Investigating Officer has submitted that on inquiring to the eye-witnesses they have stated the name of present applicant

alongwith Chandresh Vishwakarma and Wahid Shaikh. It is a part of the trial to consider whether the present applicant was present at the spot or not. At this stage mini trial is not expected. Medical certificate reflects that the nature of injury are grievous in nature. Investigating Officer has submitted that chopper used for assaulting the injured is yet to be recovered. Presence of the accused is essential for through investigation. Considering the nature of offence with which accused are charged are serious in nature. Custodial interrogation is necessary of the applicant. Nothing has been brought to reflect that applicant has been falsely implicated in the crime. Thus, considering the nature of allegations, prima-facie case is not made out by applicant for grant of pre-arrest bail. Hence, I pass the following order :-

ORDER

Application is hereby rejected.

Nashik.
Date : 18/10/2022.

(V.S.Malkalpatte-Reddy)
Additional Sessions Judge,
Nashik.