

Order below Exh.01 in Cri.B.A.No.1264/2022

CNR No.MHNS010053622022

(Darshan Sham Mandlik etc.1 vs. State)

The applicants have preferred this application for anticipatory bail praying therein that they may be released on bail in the event of arrest in connection with CR.No.I-406/2022 registered with Panchavati police station for the offence punishable under Sec.307, 143, 147, 148, 149 of IPC and Sec.135 of Maharashtra Police Act on the basis of FIR lodged by Shashikant Chintaman Joshi.

2. Bail application is filed on the ground that the applicant is innocent and has been falsely implicated in the case. That the applicants are permanent residents of Nashik having business of Service station and Land Developers. That on 24.12.2021, sons of informant attempted to murder of Tejas @ Bala Sham Mandlik i.e. brother of applicant and his friend Vyankatesh Sharma by dangerous weapon in which Tejas was injured and Vyankatesh succumbed to the injuries. FIR bearing No. I-402/2021 is registered to Panchavati police station for the said offence. Due to rivalry, this false complaint is filed. False allegations are made. Injured is intentionally admitted in the private hospital. They are ready to abide by terms and conditions imposed by the court. They will not tamper prosecution evidence nor pressurize informant or witnesses. On these main grounds and others have prayed for bail.

3. Notice was issued to State. State appeared through Ld. APP Mr. Kotwal and filed say resisting for grant of application on the grounds that the applicants participated in the crime. That since the incident, they are absconded. That they have earlier counter cases. That other two accused are yet to be arrested. Even vehicles are to be seized. On these main grounds and others have prayed for rejection of the bail application.

4. Heard Ld. Advocate Mr.Sanap for applicants. Perused bail application. Heard Ld. APP Mr.Kotwal. Perused police papers and say filed by Panchavati police station.

5. Ld.Adv. Mr.Sanap reiterated all the grounds in the bail application. He went through FIR and contended that role assigned to the applicant is assault by fist and kick blows. Hence, question of recovery does not arise. Ultimately, he prayed for anticipatory bail on certain terms and conditions.

6. Per contra, Ld.APP Mr.Kotwal reiterated all the grounds mentioned in the say and prayed for rejection of bail application.

7. On perusal of FIR it can be gathered that Yash Date had called informant out of the house on the pretext that some person has poured kerosene on himself at a place where his sister resides. Thereafter, Sachin assaulted with fist and blows. Tejas @ Bala Mandlik stabbed Sachin on his stomach. Shamrao Mandlik assaulted Sachin by beer bottle on his head. Other than this, three tolas of gold chain and amount of Rs.11,000/- are missing.

8. From the contents of FIR, role assigned to the present applicant is of giving assault by fist and kick blows. It is settled principle that FIR is not encyclopedia of the crime. The Investigating Officer has recorded statement of Sachin. He has categorically assigned role to the present applicant that after Tejas stabbed him, Darshan Mandlik took knife from him and stabbed on his stomach and chest. Bhushan assaulted him on his head by beer bottle. Thus, the injured Sachin Joshi has categorically assigned role to both the applicants.

9. There is prima facie material of involvement of both the applicants in the offence of attempt of murder. The medical certificate of Sachin Joshi mentions four injuries on forehead, chest, multiple stab wound on abdomen and one penetrating injury on the arm. Nature of injury is grievous. When there is prima facie case of attempt to murder, discretion in nature of anticipatory bail cannot be exercised in favour of the applicants. Hence, following order is passed :

ORDER

(1). Application stands rejected.

Nashik.

Date : 17.10.2022

(V. P. Desai)

Additional Sessions Judge,
Nashik.