

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1383 OF 2015

Nadar Nasir Pathan & Anr. ..Applicants

v/s.

The State of Maharashtra. ..Respondents

Mr. Niranjan Mundargi for the Applicant
Mrs. Veera Shinde , APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : DECEMBER 05, 2015.**

P.C.

1. This is an application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in Crime No.302 of 2015 for the offence under Section 307, 323, 504, 506 r/w. 34 of Indian Penal Code registered with Shahupuri Police Station, Kolhapur.

2. Shri Mundargi, the learned counsel for the applicant has submitted that the injuries allegedly inflicted by the accused no.2 were simple in nature. He has submitted that the imputation against the applicant in the FIR dated 22.8.2015 do not prima facie constitute offence under Section 307 of PC. He has further stated

that the applicant- Nadar is 18 years old boy and has no criminal antecedents. He therefore requests that the applicant be granted anticipatory bail.

3. Mrs. Shinde, the learned APP submitted that the FIR prima facie discloses essential ingredients of Section 307 of Indian Penal Code. The offence being of serious nature, the applicants are not entitled for bail.

4. I have perused the records and considered the submissions advanced by the learned counsel for the applicants and the learned APP for the State. A plain reading of FIR dated 21.8.2015 lodged by one Dastagir Shaikh reveals that there was a quarrel between him and his cousin Bashir on 21.8.2015 and that as a fallout of the said quarrel, on 28.8.2015 the said Bashir along with this applicant assaulted him. The FIR reveals that Bashir had allegedly assaulted him with knife on his head, whereas the applicant no.2 Abbas had tried to inflict an injury on his stomach which he avoided and in the process sustained injury on his right hand. The complainant has further alleged that the applicant no.1 had also assaulted him with kicks and blows.

5. A perusal of the medical certificate prima facie reveals that the complainant had sustained contused laceretal wound on right forearm and right temporal region. Both the injuries are stated to be simple in nature. The nature of the injuries, in my considered view are not sufficient to cause death and would prima facie not attract the provisions of Section 307 of Indian Penl Code. The applicant no.2 is stated to be a young boy of 18 years of age with no criminal antecedents. Moreover, the knives which were allegedly used as weapon of offence are already recovered at the instance of Bashir. Considering these facts, so also considering the nature of allegations leveled against the applicant, in my considered view, this is not a case which would warrant custodial interrogation.

6. The applicants are permanent residents of Kolhapur and there is no possibility of the applicants absconding or thwarting the course of investigation.

7. In the circumstances and in view of the discussion supra, the application is allowed on the following terms and conditions:-

i) In the event of arrest of the applicant in Crime No.302 of 2015 of Shahupuri police station, Kolhapur, the applicant be released on

bail on the applicant furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand Only) with one or two solvent surety/ies in the like amount to the satisfaction of the learned Sessions Judge, Kolhapur.

ii) The applicant shall report to the Investigating Officer initially for seven days between 10 a.m. to 1.p.m. and further as when required by the Investigating Officer for the purpose of investigation and interrogation.

iii) The applicant shall not leave Kolhapur till filing of the chargesheet without the prior permission of the learned Sessions Judge, Kolhapur.

(ANUJA PRABHUDESSAI, J.)