

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

ANTICIPATORY BAIL APPLICATION NO.1730 OF 2015

Vilas Sudam Patil	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Kuldeep S Patil, Adv. for applicant.
Mr. J H Ramugade, APP for State.
Mr. P V Khanapure, Police Inspector present.
RP Gunjal, API, New Panvel Police Station present.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 3rd December, 2015.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in Crime No. I 134 of 2015 registered at Navin Panvel Police Station, for the offences punishable under Sections 324, 326, 504 read with 34 of the IPC.

2. The learned counsel for the applicant submitted that the nature of the allegations levelled against the applicant do not attract provisions of Section 326 of IPC. He has further submitted that offence alleged at the most would be covered under Section 325 of the IPC which is a bailable offence.

3. The learned APP for State submitted that the nature of the injuries are serious and the manner in which the victim was assaulted would certainly attract the provisions of section 326 of IPC.

4. Heard the learned counsel Mr. Kuldeep Patil for the applicant and the learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties. The FIR prima facie reveals that on 29th September, 2015 at about 11.30 pm, the applicant and others had abused and assaulted the complainant by means of a cricket bat, kicks and blows. The medical certificate prima facie reveals that the complainant had sustained grievous injuries.

5. It is pertinent to note that in order to attract provisions of Section 326 of IPC, the grievous hurt has to be caused by means of any instrument used for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal. In the instant case as stated earlier, the injuries have been caused by a wooden bat. In my considered view a wooden bat cannot be considered as an instrument, which used as weapon of offence would cause death. Prima facie the ingredients of Section 326 are not made out.

6. The applicant is the permanent resident of Panvel hence there is no possibility of the applicant absconding or thwarting the course of justice. Under these circumstances the applicant is entitled for bail. Hence the application is allowed on the following terms.

1. In the event of arrest of the applicant in Crime No.30 of 2015 registered at Navin Panvel Police Station, the applicant shall be released on bail bond of Rs.20,000/(Rupees Twenty Thousand Only) with one or two sureties in the like amount to the satisfaction of the learned Judicial Magistrate, First Class, Panvel.
2. The applicant shall report to the investigating officer for 7 days between 10 am to 1 pm and further as and when required by the investigating officer for the purpose of the interrogation.
3. The applicant shall not tamper with the evidence or influence complainant and witnesses in any manner.
4. The applicant shall not leave Panvel without prior permission of JMFC, Panvel.

(ANUJA PRABHUDESSAI, J.)