

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

912 CRIMINAL APPLICATION NO. 1905 OF 2017

ASIF BEG S/O. MIYA BEG MIRZA AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Applicants : Mr. P.B. Patil
APP for Respondent/State : Mr. M.M. Nerlikar
...

CORAM : T.V. NALAWADE, J.
DATED : April 21, 2017.

ORDER :

1. The application is filed for relief of anticipatory bail. Both the sides are heard. The papers of investigation were made available for perusal of this Court.

2. In respect of the incident dated 25.3.2017, the F.I.R. was given on 29.3.2017 by one Munaf Beg Rashid Beg. He has made allegations that on that day at about 11.00 a.m. when he was present with his wife and other members of family, accused persons entered his house with the applicants and they picked up quarrel. It is his contention that the accused persons wanted share in the house which he had purchased from his own income. He has made allegations that during incident applicant No. 1 - Asif Beg assaulted the wife of complainant namely Fatimabi by using stick on her hand and he caused injury. He has

contended that during the incident, Fatimabi lost gold ornaments weighing 5 grams. Allegations as against the other applicant are vague. But, there are specific allegations as against applicant No. 1 - Asif Beg. The learned APP produced the record of M.L.C. and it shows that one injury was noticed on wrist joint of left hand and the doctor has suspected a fracture. The patient was referred for further examination and for taking X-ray. The other certificate issued by the private hospital shows that there is fracture base of 5th metatarsal left side contusion and there is fracture to left end ulna left side.

3. The learned counsel for applicant submitted that the delay of 4 days was caused in giving the F.I.R. and this circumstance needs to be considered. He placed reliance on some observations made by this Court in the case reported as **2000 (1) Mh.L.J. 549 [Dilip Ramaji Kakde Vs. State of Maharashtra]**. There cannot be any precedent for granting or refusing bail. This Court holds that observations made in aforesaid case cited supra are of no use to the present applicants.

4. The allegations are made against applicant No. 1 that he assaulted Fatimabi and there is such injury certificate.

The incident took place inside of the house of the complainant and in view of these circumstances, no protection can be given in favour of the applicant No.1. However, there are vague allegations as against applicant No. 2, who is a lady and no injury appears to be caused by applicant No. 2.

5. In view of these circumstances, the application of applicant No. 1 - Asif Beg s/o. Miya Beg Mirza stands rejected. Application of applicant No. 2 - Kafiyaabee w/o. Asif Beg Mirza is allowed. Interim relief granted earlier in her favour is confirmed. The observations are for the present purpose only.

[T.V. NALAWADE, J.]

SSC/