

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2024 OF 2017

1. Narendra Chandrakant Sawant ...Applicants
2. Shrikant Anand Lambhate
Versus
The State of Maharashtra ...Respondent
Mr.C.K. Pendse i/b Makrand M.Kale for the applicants.
Ms. A.A. Takalkar,APP for the State.
PSI, Sunil Yatam Kherwadi Police Station

CORAM: A.M. BADAR, J.
DATED: 22nd NOVEMBER, 2017

PC:-

1. The applicants are accused in Crime No.331 of 2017 registered with Kherwadi Police Station for the offences punishable under Section 326 r/w 34 of the Indian Penal Code,by this application are seeking their release on bail in the event of their arrest in the said crime.

2. Heard the learned advocate appearing for the applicants/accused. He argued that the instant incident in question took place in the common pool quarters of government at Bandra. The alleged victim of the crime in

question as well as both the applicants are government servants. The incident resulted in lodging the cross complaints. The complaint of the present applicants was treated as report of non cognizable case, whereas the report lodged by the first informant yielded in registration of non bailable offence against both the applicants.

3. My attention is drawn to the history given by the injured to the medical officers and it is argued that prima facie the grievance here seems to be as a result of grave and sudden provocation and therefore this is not a fit case to cause arrest of the applicants in the crime in question. It is further argued that considering the totality of circumstances, it cannot be said that applicant No.1 Narendra was sharing the common intention with applicant No.2 Shrikant.

4. The learned APP opposed the application by contending that the FIR is lodged belatedly as the first informant was taking medical treatment for his fractured nose at two

hospitals. The learned APP further argued that the FIR shows that in furtherance of their common intention both the applicants have assaulted the first informant causing the fracture injury to him and therefore both are vicariously liable for the act.

5. I have carefully considered the rival submissions and also perused the case diary including the FIR. The FIR itself shows that family of the first informant as well as these both applicants were on inimical terms. It is further seen from the FIR as well as the report of non cognizable case lodged by applicant No.2 Shrikant that motor cycle of the first informant had brushed the applicants resulting in happening of the incident in question. It appears that this minor incident resulted in the scuffle. The history given to the medical officer by the first informant shows that he was assaulted by four known persons by iron rod. Earlier to that the first informant reported about the assault by a wooden rod to the medical officer of different hospitals. It is seen that prior to the actual

assault causing the fracture injury to the nasal bone, there was altercation between the parties. It indicates that there was a grave and sudden provocation.

6. Considering the fact that both the applicants are State government servants, there is no possibility of their absconding or evading the due course of law and instead of their custodial interrogation, interest of the prosecution can be served by directing them to join the investigation by attending the concerned police station.

7. In the result, I pass the following order.

ORDER

- i) The application is allowed.
- ii) In the event of their arrest in Crime No.331 of 2017 registered with Kherwadi Police Station for the offences punishable under Section 326 r/w 34 of the Indian Penal Code the applicants/accused be released on bail on executing

their P.R bond of Rs 15,000/- each and on furnishing sureties in the like amount.

iii) As a condition of this order, the applicants shall attend the concerned police station on 25th November and 3rd December in between 11.00 a.m. to 1.00 p.m. and they should co-operate with the investigating officer.

iv) In addition to this they should also attend the concerned police station as and when directed by the Investigating Officer for the purpose of investigation.

v) As a condition of this order the applicants should not indulge in commission of any crime in future and in the event of breach of this condition, the prosecution is entitled to seek cancellation of their anticipatory bail.

vi) The applicants/accused should not directly or indirectly,

make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.

vii) They should not tamper with the prosecution evidence.

viii) The application is disposed of accordingly.

(A.M. BADAR, J)