

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

ANTICIPATORY BAIL APPLICATION NO. 1350 OF 2018

Atul Anil Maghade	... Applicant
Vs.	
The State of Maharashtra	... Respondent

...

Mr. Aniket Vagal for the applicant.
Mr. M.G. Patil, APP for the Respondent-State.
Mr. Lokore PSI & Mr. Dhonde PSI Sakinaka, Police Station.

...

CORAM : PRAKASH D. NAIK, J.
DATE : 21st AUGUST, 2018.

P.C.

1. This is an application for anticipatory bail. The applicant is apprehending about arrest in connection with CR No. 164 of 2017 registered with Sakinaka Police Station on 28th March, 2017 for the offences punishable under Sections 323, 324, 143, 149, 427 of Indian Penal Code.

2. According to complainant, the accused had picked up quarrel with the residents of building No. 17 BB, Sai Shradha Co-operative Society, Sakinaka. During the quarrel, the accused assaulted Smt. Maina, the complainant and one Brijlal tried to intervene in the assault and at that time they were assaulted. According to the complainant, one Saif had assaulted Brijlal by giving blow on his

head with tubelight. The other accused has assaulted by fist and kick blows. The statement of complainant was recorded on 28th March, 2017. Subsequently, charge under Section 326 of Indian Penal Code was added. The statement of Brijlal Yadav was recorded on 30th March, 2017. In the said statement, he has stated that accused Saif had assaulted him at his hand with blow of Bamboo stick and the applicant had assaulted by tubelight.

3. Learned advocate for the applicant submitted that co-accused were arrested and were granted bail, at that point of time the offences were registered under Section 323, 324, 143, 149, 427 of Indian Penal Code. However, subsequently the charge under Section 326 of Indian Penal Code was added. It is submitted that there is contradiction in the statement of the complainant and Brijlal Yadav. Section 326 of Indian Penal Code is not attracted in this case.

4. Learned APP submitted that injured witness Shri Brijlal has specifically attributed overt act to the applicant by assaulting him by using tubelight on his head. He had sustained injury on his fore-arm and on head. The prosecution is contemplated to file application for cancellation of bail granted to the co-accused. On perusal of the First Information Report lodged by Anand

Shivshankar Yadav, it is apparent that the role is attributed to all accused having assaulted by fist and kick blows. It is also stated that Brijlal was assaulted by using tubelight on his head by co-accused Saif. Whereas statement of Brijlal which is recorded three days thereafter mentioned that the applicant has assaulted him by giving blow on his head with a use of tubelight.

5. I have also perused the medical certificate. The injury sustained by the complainant are simple in nature. The witness Brijlal had sustained grievous hurt on fore-arm. said injury committed by co-accused. The injuries sustained on the head of Brijlal Yadav is simple in nature. Subsequently, the charge under Section 326 of Indian Penal Code was added. The applicant was granted interim protection vide order order dated 11th July, 2018.

6. Taking into consideration the aforesaid aspect, case for grant of anticipatory bail is made out. Hence, I pass the following order.

ORDER

- i) Anticipatory Bail Application No. 1350 of 2018 is allowed.
- ii) Interim order dated 11th July, 2018 is confirmed.
- iii) In the event of arrest of the applicant in connection with CR No. 164 of 2017 registered with Sakinaka Police Station, the applicant be released on bail on furnishing PR bond of Rs.15000/-

(Rs. Fifteen Thousand) with one or more sureties in the like amount;

iv) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses;

v) Application stands disposed off.

Sachidanand
Kuttan Nair

Digitally signed
by Sachidanand
Kuttan Nair
Date:
2018.08.24
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(PRAKASH D. NAIK, J.)