

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

CRI. ANTICIPATORY BAIL APPLICATION NO.2132 OF 2018

Laxmi Anil Gaud & Anr.	.. Applicants
Vs.	
State of Maharashtra	.. Respondent

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Mr.Balwant V. Salunkhe, Advocate for the Applicants.
Mr.Arfan Sait, APP for the Respondent – State.
Mr.Dilip K. Mane, PSI, Mulund Police Station, Mumbai, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 16, 2018.

P.C. :

This is an application for anticipatory bail in connection with C.R. No.355 of 2018, registered with Mulund Police Station, Mumbai, for the offences punishable under Section 326, 323, 504 and 506 read with 34 of Indian Penal Code (“IPC”, for short). FIR was registered on 19th September, 2018.

2 Applicant preferred an application for anticipatory bail before the Sessions Court, which has been rejected on 3rd October, 2018. Applicant no.1 is the mother of applicant no.2. The prosecution case is that on 18th September, 2018, the complainant was returning home after dropping his friend who has visited his house. At about 9:00 p.m., when he has reached near Saibaba

Temple Garden, Mulund Colony, applicant, one Ajay Gaud and Manish Pardeshi started abusing him on account of earlier quarrel and also assaulted complainant. At that time the mother of the complainant had intervened. Applicant no.1, at that time, also intervened and started abusing. Applicant no.2 then brought wooden logs and complainant was assaulted. Complainant had sustained a fracture hence offence is registered under Section 326 of IPC and other penal offences. Learned counsel for the applicant submitted that the applicants are falsely implicated on account of previous quarrel. Other accused granted bail were arrested and subsequently were released on bail. Co-accused were arrested and the weapon i.e. stick, which were allegedly used in the commission of crime has been recovered from the spot. It is also submitted that the said co-accused were released on bail. Custodial interrogation of the applicant is not necessary. Learned APP pointed out the medical certificate, which shows the nature of injury sustained to the injured persons. It is submitted by the learned APP that the victim has sustained injury to his eyebrow and hand by the accused. Applicant has played the major role in the said incident and he was aggressive in the crime. Hence, the learned APP prayed that the application be rejected.

3 On perusal of FIR, it is apparent that applicant no.2 has attributed the role of assaulting the complainant, as a result of which he had sustained injuries. Applicant no.1 is the lady. Even, she has attributed the role of assault by bamboo sticks. Considering the fact that she has intervened subsequently and major role has been attributed to applicant no.2 and the other accused, anticipatory bail can be granted to applicant no.1. I have also perused the medical certificate produced by the prosecution, which refers to the fracture sustained by the injured person. In the circumstances, no case for grant of anticipatory bail is made out qua applicant no.2. However, applicant no.1 is granted protection under Section 438 of IPC.

4 Hence, I pass the following order:

:: O R D E R ::

- (i) In the event of arrest of Applicant No.1 in connection with C.R.No.355 of 2018, registered with Mulund Police Station, Mumbai, he may be released on his furnishing P.R. Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;

- (ii) The application preferred by Applicant No.2, is rejected;
- (iii) Applicant no.1 shall not tamper with the evidence and shall not approach the complainant and other witnesses;
- (vi) Anticipatory Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)