

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

ANTICIPATORY BAIL APPLICATION NO.1253 OF 2019

Alim @ Alimodin Shamsoddin Patel Applicant
Versus
The State of Maharashtra Respondent

- Mr. Sachin H. Deokar a/w. Rushikesh Kale for the Applicant.
- Mr. S. R. Agarkar, APP for the State/Respondent.
- Mrs. Jadhav Bhagyashri Shivaji, PSI, MIDC Solapur City p.stn. is present.

**CORAM : SARANG V. KOTWAL, J.
DATE : 12th JUNE, 2019**

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. I 357 of 2019 registered with M.I.D.C. police Station, Solapur, under sections 307, 324 r/w. 34 of I.P.C. and under sections 4 and 25 of Indian Arms Act.

2. The FIR is lodged by one Mushtaq Patel. In the FIR he mentions that the present applicant had asked for loan of Rs.60000/- from him, but the first informant had refused and, therefore, the applicant held grudge against the first informant. On 06/05/2019 at one birthday party at around 8.15p.m. suddenly

the first informant was assaulted by the present applicant and others. The applicant was carrying a big knife. His son was having sword. One co-accused had log of wood. All of them assaulted the first informant with their weapons. When the present applicant was about to inflict blow on his stomach, one Riyaz intervened who also suffered injury on his hand because of the knife. One other person Arif suffered injury near his eye. Thereafter all the assailants including the present applicant ran away.

3. Learned APP produced medical certificate and other investigation papers before the court. Heard Shri. Sachin Deokar and Rushikesh Kale for the applicant and Mr. S. R. Agarkar, learned APP for the State.

4. Learned counsel for the applicant submitted that the offence of 307 of I.P.C. is not made out because if the applicant had any intention to commit, nothing prevented him from inflicting more blows. He further submitted that the incident could not have occurred in birthday party in a public place. He submitted that, therefore, all the allegations appear to be false and applicant is falsely implicated. As against this, learned APP pointed out that

the first informant has suffered fracture on his right hand. The other injuries suffered by Arif and Riyaz are in consonance with allegations in FIR. Though it is doubtful whether S.307 of I.P.C. is applicable, however, offence of S.326 is clearly made out as the first informant had suffered fracture to his hand. Since all the accused had come together, they had shared common intention. At this stage, it is not possible to separate the role of each of the accused and, therefore, I am not inclined to grant discretionary relief of anticipatory bail in favour of the applicant. Application is rejected.

(SARANG V. KOTWAL, J.)