

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

ANTICIPATORY BAIL APPLICATION NO.1003 OF 2019

Dharma Kandaswami Devendra Applicant

versus

The State of Maharashtra Respondent

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- Mr. Aniket Vagal, Advocate for Applicant.
- Mr. S. H. Yadav, APP for the State/Respondent.
- Mr. Suryavanshi, PSI, Faraskhana Police Station, Pune City present.

CORAM : SARANG V. KOTWAL, J.

DATE : 13th AUGUST, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R. No.44/2019 registered with Faraskhana Police Station, Pune City under Sections 326, 341, 323, 504, 506, 143, 147, 148 r/w. 149 of IPC, under Section 37(1) r/w. 135 of the Mumbai Police Act and under Section 4 r/w. 25 of the Indian Arms Act.

2. The FIR is lodged on 14/1/2019 by one Vicky Selva Devendra. He has stated that he was having enmity with one

Vicky Dharmi Devendra who was applicant's son since about five months prior to the incident dated 14/1/2019. He has stated that there used to be constant bickering between the informant and the applicant's son. On 14/1/2019, at about 12.30 a.m. suddenly the applicant's son Vicky, Vinod alongwith 4 to 5 persons came towards him and assaulted the informant on his head with sickle. As he was trying to run away, other 4 to 5 unknown persons assaulted him with kicks and fist blows. Vinod also tried to assault him with weapons but the informant warded it off with his hand. Because of that, he suffered injuries on his wrist and near elbow of right hand. His cousin Shankar tried to intervene, he was also assaulted by Vicky with a sickle. Thereafter, first informant's mother and sister Rani came to the spot. The accused showed them weapons. After some time, accused left from there. Informant was taken for treatment and this FIR was lodged. The investigation was carried out and the chargesheet is filed against other accused. All the accused except the present applicant are on bail as on today.

3. Heard Mr. Aniket Vagal, Ld. Counsel for the Applicant and Mr. S. H. Yadav, Ld. APP for the State.

4. Mr. Vagal submitted that the FIR does not even named the present applicant. Though his name is appearing in the statement of the eye witnesses, no serious role is attributed to the present applicant. He further submitted that the supplementary statement of the first informant is recorded on 20/1/2019 wherein he has tried to implicate the present applicant. He therefore submitted that the attempt on the part of the informant and his group to implicate the applicant falsely is clear. He therefore submitted that the applicant deserves the protection of anticipatory bail.

5. As against these submission, Ld. APP pointed out that the eye witnesses' statement are recorded on the same date i.e. on 19/1/2019 and therefore there is no force in the submission that eye witnesses have implicated the applicant falsely.

6. I have considered these submission. I have also perused the medical certificate. The medical certificate shows that the injured Vicky suffered four injuries. Two were incised wound on the head and left palm. One more incised wound was seen on the right elbow and there was one abrasion on left forearm. The injury to the head was grievous.

7. If the FIR and the statement of the eye witnesses are seen, it appears that the incident had taken place in two parts. In the first part, the informant was assaulted with sickle by the accused Vicky. He was also assaulted by other associates. However, the eye witnesses statement show that thereafter the informant had rescued himself and had run away. On the second occasion he was again caught and assaulted. At this stage, the present applicant is alleged to have assaulted the informant. The present applicant was not even present during first part of the incident as per statements of the eye witnesses. Therefore, at this stage, it cannot be observed that the applicant had shared any common intention to cause grievous injury to the first informant. There is no injury certificate in respect of Shankar who was also

allegedly assaulted by the accused. The main accused who had caused grievous injury are already granted bail. In this view of the matter, custodial interrogation of the present applicant is not necessary. The investigation is already over and chargesheet is filed. I am therefore, inclined to grant protection of anticipatory bail to the present applicant. Hence, the following order.

ORDER

- (i) In the event of his arrest in connection with C.R. No.44/2019 registered with Faraskhana Police Station, Pune City, the applicant is directed to be released on bail on his executing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in like amount.
- (ii) The application is accordingly disposed of.

(SARANG V. KOTWAL, J.)