

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

**ANTICIPATORY BAIL APPLICATION NO. 1352 OF 2019**

Naseem Haji Pathan @ Naseenkhan

Asharafkhan Pathan

...Applicant

Vs.

State of Maharashtra

...Respondent

- Mr. Bhushan U. Deshmukh, Advocate for the Applicant.
- Mr. Prashant Jadhav, APP for the State.
- Mr. Sandeep A. Patil, PSI, Yeola City Police Station, Nashik.

**CORAM : SARANG V. KOTWAL, J.**

**DATE : 22<sup>nd</sup> JULY, 2019**

**P.C. :**

1. The applicant is seeking anticipatory bail in connection with CR No. 179/18 registered at Yeola Police Station under Sections 307, 324, 504, 506, 143, 148, 149 read with 34 of the IPC and Sections 4 read with 25 of the Indian Arms Act.

2. The FIR in this case is lodged by Shahid Ansari. He had stated that there is previous enmity between the applicant's group and informant's group. On 18<sup>th</sup> November 2018 at around 4.15 p.m. he was informed by some boys from the locality that the informant's uncle Majid Ansari was assaulted near Shamshuddin

Garage. The informant and his mother Shabiya rushed there. There they saw that one Raju Pathan with sword, Pappu Langda with wooden stick, Ansar Pawel with wooden stick, Babbu with pipe, Wasim Shaikh with pipe, Bablu with sword and the present applicant were assaulting his uncle. All of them had encircled Majid and were saying that he should be finished. The informant and his mother intervened to save Majid. Even they were assaulted and threatened. The applicant was abusing and was telling others to finish the victim. In the assault, Majid suffered serious injuries and even the first informant had suffered injuries. Based on these, FIR was lodged.

3. I have heard Mr. Deshmukh, learned counsel for the applicant and Mr. Jadhav, learned APP for the State.

4. Mr. Deshmukh submitted that the co-accused are granted regular bail. Offence under Section 307 is not made out against them. He submitted that there is no specific role attributed to the present applicant. The FIR itself mentioned that the applicant was not carrying any weapon. He further submitted that the applicant has made out a case for anticipatory bail.

5. Learned APP produced before me the medical certificate of injured Shahid Ansari i.e. the first informant. He had suffered two simple injuries on his right hand and left leg. Those injuries were simple, though it established his presence at the spot at the time of incident. The injury certificate of Majid Ansari shows that he had suffered one CLW on the left leg, one abrasion on chest, one injury on his head of dimension 7x3x1cm. All these injuries were described as simple. Majid had also suffered one more injury with dimension 6x3x1cm on his left hand causing fracture on his middle and index fingers. This injury is described as grievous injury. Thus, he had suffered two major injuries. The head injury though is described as simple injury is of dimension 7x3x1cm. Thus, though they may not be life threatening injuries, the offence under Section 326 is definitely made out.

6. The FIR does not mention that the applicant was carrying any weapon, but general statement that he was also one of the assailants and he was assaulting the deceased and the injured, is mentioned in the FIR. Apart from that, he was instigating others to cause serious assault on the victims as he was telling them to finish

those victims. Thus, at this stage, it cannot be said that he is innocent and he had played no role.

7. Considering these facts and that the offence under Section 326 is made out against him, no case for anticipatory bail is made out. His custodial interrogation is necessary though others was released on regular bail. Hence, this application is rejected.

**(SARANG V. KOTWAL, J.)**