

Anand

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

ANTICIPATORY BAIL APPLICATION NO. 1654 OF 2019

Kalim @ Balla Yarmohammed Khan .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. S. R. Samel i/b. Rajeev Sawant & Associates, Advocate, for
the Applicant

Mr. S. S. Hulke, APP, for the Respondent – State

Mr. Deepak Hinde, PSI, Kandivali Police Station, Mumbai present

CORAM : REVATI MOHITE DERE, J.

DATE : 26.07.2019

P.C.

. Heard learned counsel for the Applicant.

2. By this Application, the Applicant seeks pre-arrest bail in connection with C. R. No. 223 of 2019 registered with the Kandivali Police Station, Mumbai, for the alleged offences punishable under Sections 323, 326, 504, 506(ii) r/w 34 of the Indian Penal Code (for short 'IPC').

3. Learned counsel for the Applicant submits that in the

incident which took place on 11.04.2019, the Applicant is alleged to have assaulted the Complainant's son with an iron rod on his head. Learned counsel for the Applicant submits that the injury sustained by the Complainant's son is a simple injury. He submits that similarly placed co-accused – Afroz Istiyak Khan has been granted pre-arrest bail by this Court (Coram : Revati Mohite Dere, J.) vide order dated 11.07.2019. He submits that none of the injuries are grievous in nature and as such, it is doubtful whether the offence punishable under Section 326 of the IPC is disclosed in the facts.

4. Learned APP does not dispute the fact that all the injuries are simple in nature.

5. Perused the papers. According to the Complainant, the incident took place on 11.04.2019 at 11.15 a. m. It appears that in the said incident, there was an altercation between two groups. According to the Complainant, he was assaulted by co-accused - Mastan on his abdomen with a cricket bat and the Applicant assaulted his son with an iron rod on his head. A perusal of the Injury Certificate of the Complainant reveals that the Complainant

– Rajendrabahadur Patel has suffered no external injuries. As far as Vishal Patel (son of the Complainant) is concerned, he has also not suffered any external injuries. As far as Manisha Mourya is concerned, she is alleged to have sustained a CLW on her head with a stone and the said injury is stated to be simple injury. Prima facie, considering the fact that all the injuries are simple in nature, it is doubtful whether the offence would be one punishable under Section 326 of the IPC or lesser offence. Be that as it may, in the facts, custodial interrogation of the Applicant is not warranted. Accordingly, the Application is allowed and the Applicant is granted pre-arrest bail on the following terms & conditions :-

ORDER

(i) In the event of arrest, the Applicant be enlarged on bail, on executing P. R. Bond in the sum of **Rs. 25,000/-** with one or two sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned police station on **5th, 6th & 7th August, 2019** between **10.00 a. m. and 12.00 noon** till the filing of the charge-sheet.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

7. It is made clear that the observations made herein are *prima facie*, and are confined to this Application.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)