

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

ANTICIPATORY BAIL APPLICATION NO. 1842 OF 2019

Ishtiyag Gulam-Gaus Kokani

...Applicant

Vs.

State of Maharashtra

...Respondent

- Mr. Mohd. Umar Z. Kazi, Advocate for the Applicant.
- Mr. S. H. Yadav, APP for the State.
- Mr. S.S. Redekar, Advocate for Original Complainant.
- Mr. Vijaysingh Shivilal Jonwal, PSI, Bhadrakali Police Station, Nasik City.

CORAM : SARANG V. KOTWAL, J.

DATE : 22nd AUGUST, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with CR No. I-656/19 registered at Bhadrakali Police Station, Nasik on 23rd July 2019 under sections 307, 324, 504, 143, 147, 148, 323 read with 149 of the IPC and under Section 135 of the Maharashtra Police Act.

2. The FIR is lodged on 23rd July 2019 by one Gulam Mustafa Gayasuddin Konkani. He has stated in the FIR that the present applicant was maternal cousin of the informant. The applicant's and informant's family were residing in adjoining houses and there

were long standing disputes between the families in respect of some land. It is alleged that the applicant was harassing the informant's family. On 22nd July 2019, the informant's mother had given complaint at Bhadrakali Police Station against the applicant and others. On 23rd July 2019, the informant was telephonically told by his father that the applicant and others had gathered at the house of one Zuber and they were abusing the informant's family. Therefore, the informant rushed there. It is alleged that the present applicant, Ziauddin Kokani, Hussain Kokani, Nizam Kokani, Dastagir Kokani, Aabid Kokani and Ashpaq Kokani came towards him aggressively. The informant tried to run away. At that time one Gulamkhwaja came there with sword in his hand and he tried to assault the informant. The informant evaded the blow, but he fell on the ground. Other accused Dastagir, Nizam and Hussain assaulted him with iron rods. The applicant and others assaulted him with fist and kicks blows. Thereafter, the informant ran away from the spot and lodged this FIR.

3. Heard, Mohd. Umar Kazi, learned counsel for the applicant as well as Mr. Yadav, learned APP for the State and Mr. Redekar,

learned counsel for the original complainant.

4. Learned counsel for the applicant submitted that one Nizam, a companion of the present applicant mentioned in the FIR, was assaulted by the first informant's group and he had lodged his FIR vide CR No. I-655/19 at the same police station on the same day under Sections 307, 143, 147, 149 and 323 of the IPC. In that case, the said Nizam had stated that the informant in CR No. I-656/19 Gulam Kokani and others had assaulted Nizam and others. He, therefore, submitted that there is a case and counter case and both the parties have implicated each other. He submitted that the injuries suffered by the first informant are not serious and offence under section 307 is not made out. In any case, very minor role is attributed to the applicant.

5. Learned counsel for the intervener submitted that both the families are residing in adjoining houses and there is a possibility that the applicant may create further trouble. He submitted that the offence is made out in the FIR.

6. Learned APP opposed the application.

7. I have considered all these aspects of the matter. I have

perused the injury certificate of informant Mustafa Kokani. He had suffered three injuries. All these injuries are described as simple injuries. There are two CLWs on the head. They are small in dimension. There is one CLW on the lips. In any case, these injuries are not attributed to the present applicant as he is alleged to have assaulted the informant with kicks and fist blows. The version in the FIR appears to be exaggerated. Apart from these three injuries, there are no other injuries and the informant had stated that other accused had assaulted him mercilessly with iron rods.

8. Learned counsel for the applicant stated that applicant will stay outside the jurisdiction of Bhadrakali Police Station till the chargesheet was filed, except for attending the police station as and when called.

9. In this view of the matter, since very minor role is attributed to the present applicant and also considering the fact that there are counter allegations showing possibilities of false implication of the applicant, custodial interrogation of the applicant is not necessary. However, apprehension expressed by the learned counsel for the

intervener is also reasonable, which needs to be taken care of.

Hence, the following order:-

ORDER

(I) In the event of his arrest in connection with C.R. No.I-656/19 registered at Bhadrakali Police Station, Nasik, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) The Applicant shall not enter the jurisdiction of Bhadrakali Police Station, till filing of the charge-sheet, except for attending the police station as and when called.

(iii) The applicant shall give his residential address to the investigating officer, where he will be staying during this period.

(iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)