

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

ANTICIPATORY BAIL APPLICATION NO.1866 OF 2019

Nizam Bilal Kokani

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Mohammed U. Kazi, Advocate for Applicant.
- Mr.Prashant Jadhav, APP for the State/Respondent.
- PSI Mr.Vijaysing Shivilal Jonwal, Bhadrakali Police Station, Nashik, present.

CORAM : SARANG V. KOTWAL, J.

DATE : 26th AUGUST, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with CR No.I-656/19 registered at Bhadrakali Police Station, Nashik on 23/07/2019 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 23/07/2019 by one Gulam Mustafa Gayasuddin Konkani. He has stated in the FIR that one Ishtiyak Gulam Gaus Kokani was maternal cousin of the informant. Ishtiyak 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 Ishtiyak was harassing the informant's family. On 22/07/2019, the informant's mother had given complaint at Bhadrakali Police Station against Ishtiyak and others. On 23/07/2019, the informant was telephonically told by his father that Ishtiyak 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 Ishtiyak, Ziauddin Kokani, Hussain Kokani, the present Applicant, 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, the present Applicant and

Hussain assaulted him with iron rods which were lying on the spot. Ishtiyak and others assaulted him with fist and kicks blows. Thereafter, the informant ran away from the spot and lodged this FIR.

3. Heard learned Counsel Mr.Mohammed U. Kazi for the applicant and learned APP Mr.Prashant Jadhav for the State.
4. Learned counsel for the Applicant submitted that the Applicant himself 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 Applicant had stated that the informant in CR No. I-656/19 Gulam Kokani and others had assaulted the present Applicant and others. Learned counsel, 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 APP opposed the application on the ground that offence is serious and section 307 of IPC is applied.
6. 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. The version in the FIR appears to be exaggerated. Apart from these three injuries, there are no other injuries and the informant had alleged that other accused had assaulted him with weapons.
7. The Applicant has already lodged a counter case, wherein he himself had suffered injuries. The version in the FIR against the present Applicant appears to be exaggerated. Custodial interrogation of the Applicant is not necessary. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with CR No.I-656/19 registered at Bhadrakali Police

Station, Nashik, 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) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)