

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2422 OF 2019

Jiyauddin Mohammed Kokani & Anr.] ... Applicants
Versus
The State of Maharashtra] ... Respondent

Mr. Mohammed Kazi, Advocate for the Applicants.
Mr. Prashant Jadhav, APP for the State/Respondent.
PSI Vikrant Vasant Dige attached to Bharati Vidyapeeth Police Station,
Pune City present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 3rd SEPTEMBER, 2019.

P. C. :-

1. Leave to amend. The amendment is to be carried out forthwith.
2. The applicants are seeking their release on bail in connection with C.R.No.I-656/2019 registered at Bhadrakali Police Station, Nashik u/sec.307, 324, 504, 143, 147, 148, 323 r/w 149 of I.P.C. and u/sec. 135 of the Maharashtra Police Act.
3. The FIR is lodged on 23/07/2019 by one Gulam Mustafa Gayasuddin Konkani. He has stated in his FIR that, one Ishtiyag Gulam Gaus Kokani was his maternal cousin. Ishtiyag and the 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, Ishtiyag was harassing informant's family. On 22/07/2019, the informant's mother had given complaint at Bhadrakali Police Station against Ishtiyag and others. On 23/07/2019, the informant was telephonically told by his father that, Ishtiyag and others had gathered at the house of one Zuber and they were abusing informant's family. Therefore, the informant rushed there. The present applicants Jiyauddin Kokani and Hussain Kokani along with Ishtiyag, Nizam, 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, Applicant No.2 – Hussain assaulted him with iron rods which were lying on the spot. Ishtiyag, present Applicant No.1 – Jiyauddin and others assaulted him with fists and kick-blows. Thereafter, the informant ran away from the spot and lodged this FIR.

4. Heard Mr. Mohammed Kazi, Ld. Coounsel for the Applicants and Mr. Prashant Jadhav, Ld. APP for the State/Respondent.

5. Ld. Counsel for the applicants submitted that, one Nizam from the applicant's group was assaulted by the first informant's group and he had lodged the FIR vide C.R. No.I-655/2019 at the same police station on the same day under Sections 307, 143, 147, 149 and 323 of I.P.C. In that case, Nizam had stated that, the informant in C.R. No.I-656/2019 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 of I.P.C. is not made out. In any case, no role is attributed to the present applicants.

6. Ld. APP opposed the application on the ground that, the offence is serious and Section 307 of I.P.C. is applied.

7. I have considered these submissions. The applicants are arrested on 23/07/2019 and since then they are in custody. I have perused the injury certificate of the informant Gulam Mustafa Gayasuddin Konkani. He had suffered three injuries. All these injuries are described as simple injuries. There are three CLWs. Apart from this three injuries, there are no other injuries.

8. Ld. Counsel for the applicants rightly relied on the order passed by this Court on 26/08/2019 in favour of Nizam Bilal Kokani in ABA No.1866/2019 wherein said Nizam was granted anticipatory bail. The applicants role is not different from Nizam. Therefore, on the ground of parity also the applicants deserve to be released on bail. The applicants are in custody since 23/07/2019. Their further custody for investigation purpose is not necessary. There is already a counter FIR filed by the applicants' group. In this view of the matter, the applicants deserve to be released on bail. Hence, the following order.

ORDER

1. The Applicants are directed to be released on bail in connection with C.R.No.I-656/2019 registered at Bhadrakali Police Station, Nashik, on their furnishing P.R.Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties each in the like amount.
2. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)