

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

ANTICIPATORY BAIL APPLICATION NO.1900 OF 2019

Dastagir Gulam Khwaja Kokni	 Applicant
versus	
The State of Maharashtra	 Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.1901 OF 2019**

Ashfaq Gulam Gaus Kokani	 Applicant
versus	
The State of Maharashtra	 Respondent

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- Mr.Mohammed U. Kazi, Advocate for Applicant.
- Ms.A.A. Takalkar, APP for the State/Respondent in ABA No.1900/19
- Mr.S.H. Yadav, APP for the State/Respondent in ABA No.1901/19.
- PSI Mr.Vijaysing Shivilal Jonwal, Bhadrakali Police Station, Nashik, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 29th AUGUST, 2019

P.C. :

1. Both these applications are decided by this common order because they arise out of same C.R.

2. Anticipatory Bail Application No.1900/19 is filed by Applicant No.1 Dastagir Gulam Khwaja Kokni and Applicant No.2 Aabid Gulam Gaus Kokni. Anticipatory Bail Application No.1901/19 is filed by Applicant Ashfaq Gulam Gaus Kokani.
3. For the sake of convenience all these Applicants are hereinafter referred by their names.
4. The Applicants are 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.
5. The FIR is lodged on 23/07/2019 by one Gulam Mustafa Gayasuddin Konkani. He has stated in the FIR that one Ishtiyaq Gulam Gaus Kokani was maternal cousin of the informant. Ishtiyaq 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 Ishtiyaq was harassing the informant's family. On 22/07/2019, the informant's mother had given complaint at Bhadrakali Police Station against Ishtiyaq and others. On 23/07/2019, the informant was telephonically told by his father that Ishtiyaq 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 Ishtiyaq, Ziauddin Kokani, Hussain Kokani, Nizam Kokani and the present Applicants 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 Nizam Kokani, the Applicant Dastagir and Hussain assaulted him with iron rods which were lying on the spot. Ishtiyaq and others assaulted him with fist and kicks blows. Thereafter, the informant ran away from the spot and lodged this FIR.

6. Heard learned Counsel Mr.Mohammed U. Kazi for the applicant and learned APP Ms.A.A. Takalkar and Mr.S.H. Yadav for the State.
7. Learned counsel for the Applicant submitted that one Nizam Kokani from the Applicant's group 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, said Nizam Kokani had stated that the informant in CR No. I-656/19 Gulam Kokani and others had assaulted him 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 Applicants.
8. The learned APP opposed the application on the ground that offence is serious and section 307 of IPC is applied.

9. Learned Counsel for the Applicant relied on the order passed by this Court dated 26/08/2019 in Anticipatory Bail Application No.1866/19, wherein Accused Nizam Bilal Kokani was granted bail. He also relied on the order passed in Anticipatory Bail Application No.1842/19 dated 22/08/2019 wherein Accused Ishtiyak Gulam Gaus Kokani was granted bail. Therefore the submissions of the learned Counsel for the Applicant that, the present Applicants also deserve to be granted equal protection on the ground of parity ; is accepted. The role attributed to the present Applicants is minor and therefore all these Applicants can be granted protection of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with CR No.I-656/19 registered at Bhadrakali Police Station, Nashik, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each, with one or two sureties each, in the like amount.

- (ii) Applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)