

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

ANTICIPATORY BAIL APPLICATION NO.2099 OF 2019

Ashok Dattatray Khaire

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Pranil Sonawane a/w Akshay Deshpande, Advocate for Applicant.
- Mr.S.H. Yadav, APP for the State/Respondent.
- API Mr.A.S. Choudhari, Sarkarwada Police Station, Nashik, present.

CORAM : SARANG V. KOTWAL, J.

DATE : 26th SEPTEMBER, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.321/19 registered with Sarkarwada Police Station, Nashik, under sections 307, 326, 141, 143, 147, 148, 149 of the Indian Penal Code and under section 135 of Maharashtra Police Act.

2. The FIR in this case is lodged by one Viraj Jagdish

Jangam. He has stated that the Corporator Vinayak Khaire, his relative Yash Khaire and Ganesh Khaire had objections for the informant and his friend sitting in their lane. In spite of their warning, the informant and others continued sitting in that lane. Therefore on 31/07/2019, at about 07.45 p.m., when the informant went there, the accused Yash Khaire, Ganesh Khaire, present Applicant, Saurabh Marathe and one more unknown person abused him. Ganesh Khaire assaulted the informant on his neck with a chopper but the informant evaded that blow and the blow landed on his left palm. Accused Yash Khaire assaulted him with chopper on his stomach and right thigh. It is alleged that the Applicant assaulted him with an iron rod on left thigh and foot. Saurabh Marathe assaulted him with kicks and fist blows. When the informant's friend Rohit Pekhale tried to save the informant, he was also assaulted by Yash Khaire and Ganesh Khaire with choppers. Thereafter the assailants went away from the spot while allegedly threatening the informant and his mother. On this basis, FIR is registered.

3. Heard learned Counsel Mr. Pranil Sonawane for the Applicant and learned APP Mr. S.H. Yadav for the State.
4. Mr. Sonawane submitted that the Applicant is 73 years of age and it is not possible that he would have taken part in assault. He submitted that in any case, the main role is not ascribed to him and therefore custodial interrogation of the Applicant is not necessary.
5. Learned APP submitted that the FIR mentions the name of the Applicant and all the accused had come together. He therefore submitted that protection of anticipatory bail should not be granted to the Applicant.
6. I have considered these submissions. I have perused the papers of investigation including the injury certificate in respect of the injuries suffered by the injured informant Viraj Jangam and his friend Rohit Pekhale.

7. The Medical Officer attached to the Civil Hospital Nashik has described the injuries suffered by them as simple injuries. There were two CLWs on his thigh and wrist. However, some injuries are described as grievous injuries in the medical certificate issued by Suyog Hospital which is a private hospital. The same private hospital has described the injuries suffered by the informant Viraj Jangam. The medical certificate issued by Suyog hospital mentions four injuries. One was on the right thigh of dimension 6 x 1 x 2 cm. Second was on left flank of dimension 3 x 1 x 3 cm. Third one was CLW of dimension 1.5 cm on left thumb. Fourth one was abrasion of 1.5 x 1 cm dimension on right cheek bone. The first two injuries were described as grievous injuries. However, it is not supported by any further opinion. Thus, there is doubt about the opinion of the Doctor in respect of nature of injuries. However, at this stage, it is not necessary to go in that question because the Applicant is not attributed any of the injuries suffered by either of the victims. The FIR mentions that the Applicant had assaulted the informant himself on left thigh. There are no such

injuries reflected in his medical certificate. In this view of the matter, there is sufficient doubt created in respect of participation of the application coupled with the fact that he is 73 years of age. His custodial interrogation is not necessary. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.321/19 registered with Sarkarwada 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) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)