

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 226 OF 2020

Sandip s/o Uttamrao Sable

Applicant

Versus

The State of Maharashtra

Respondent

Mr. N.T. Tribhuvan, Advocate for the applicant.

Mr. S.D. Ghayal, APP for respondent.

CORAM : M.G. Sewlikar, J.

DATE : 21st December, 2020.

PER COURT :

1. This is an application under Section 438 of the Code of Criminal Procedure for releasing the applicant on bail.

2. Facts leading to this application are that on 10.12.2019 at 1.30 pm, the informant was about to sit in his car. At that time, applicant alongwith other accused came there. Applicant fished out a knife and delivered blow of it on the right wrist of the informant. He also delivered blow of the knife on his head. When the brother of the informant by name Nilesch came there, he was also assaulted by the applicant on his left palm. Applicant also assaulted on the hand of brother of the informant by name Shailesh and on the hand and spine of the father of the informant. Accordingly, First Information

Report was lodged on 11.12.2019 on the basis of which, offence under Sections 326, 324, 336, 504 read with Section 34 of the Indian Penal Code was registered against the applicant.

3. Heard Shri Tribhuvan, learned counsel for the applicant and Shri Ghayal, learned APP for the State.

4. Learned counsel Shri Tribhuvan submitted that the applicant has filed First Information Report against the informant which is prior in time. To counter blast that First Information Report, this false First Information Report has been filed. He further submitted that the offence under Section 326 of the Indian Penal code is applied but the medical certificate shows that the informant sustained simple injuries. Therefore, the offence does not fall within the purview of Section 326 of the Indian Penal Code but it falls within the purview of Section 324 of the Indian Penal Code. Section 324 of the Indian Penal Code is bailable and therefore, custodial interrogation of the applicant is not necessary.

5. Learned APP Shri Ghayal submitted that the applicant delivered blow of knife on the head of the informant. He submitted

that the informant was hospitalised as he had sustained injuries on the parietal region and on the forehead. He further submitted that the informant was referred to surgery department for further investigation. The offence is serious in nature and therefore, the application deserves to be rejected.

6. On perusal of the medical certificate, it is seen that the informant had sustained two injuries, one on the head and another on the parietal region. Both the injuries are simple in nature. The informant was referred to surgery department for further investigation. However, till date, the Investigating Officer could not collect the certificate from the surgery department. In this view of the matter, there is no evidence to show that the informant had sustained greivous injuries. In this view of the matter, I am inclined to release the applicant on anticipatory bail as his custodial interrogation is not necessary. In the result, interim anticipatory bail is confimed on the same terms and conditions. Application is disposed of.

(M. G. SEWLIKAR)
JUDGE