

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

ANTICIPATORY BAIL APPLICATION NO.2334 OF 2019

Rahul Bharat Jain Applicant
Versus
The State of Maharashtra Respondent

Mr. Ashish Dubey, Advocate a/w. Laxman Bhinda, Uttam S. Rane
i/b. Ashish Dubey, for the Applicant.

Mr. S. H. Yadav, APP for State/Respondent.

PSI Mr. P.B. Desai, Malvani Police Station, I.O., is present.

CORAM : SARANG V. KOTWAL, J.
DATE : 22nd DECEMBER, 2020.

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.348/2019 dated 17.4.2019 registered at Malvani Police Station, Mumbai under sections 326, 323, 504 read with 34 of the Indian Penal Code.

2. Heard Shri Ashish Dubey, learned Counsel for the Applicant and Shri S. H. Yadav, learned APP for the State.

3. The FIR is lodged by one Raj Jain. The Applicant is the first informant's cousin. There was property dispute between the informant's family and the Applicant's family. On 12.4.2019, the

informant had given a non-cognizable complaint at Malavani Police Station.

. On 16.4.2019 at about 7:45 p.m., the Applicant and his brother Ketan Jain approached him. They told him to remove the CCTV instruments which were recently installed. They abused him and tried to break the CCTV instruments. It was alleged that both of them pushed him. The Applicant and his brother picked up a brick and gave blows on the informant's right hand repeatedly. He suffered injury on the base of his right thumb. The informant's father came for his help. He was also beaten. On this basis, the FIR is lodged.

Submissions :

4. Learned Counsel for the Applicant submitted that the FIR is lodged in April, 2019. Since then he was always available, but, the police did not choose to arrest him. Therefore, his custodial interrogation, in any case, is not required. He submitted that it was a family dispute. The FIR itself mentions that the incident had occurred because of their family dispute. Therefore, there is a strong possibility of false implication.

5. Learned A.P.P. produced the medical papers before me. They show that the informant had suffered fracture at the base of his thumb. There appears to be one grievous injury to his thumb because of the fracture.

Reasons :

6. Perusal of the FIR shows that it does not ascribe a particular role to the present Applicant separately. There is a general statement that both the accused picked up a brick and gave blows to the victim. The Applicant's brother Ketan Jain is already released on regular bail.

7. There was no preparation and the accused had not gathered with the weapons. Therefore, it is doubtful whether they had intention to cause the grievous injury.

8. No explanation is offered by the investigating agency as to why the Applicant was not arrested since April 2019.

9. Therefore, I am of the view that the Applicant's custodial interrogation is not required. He deserves the protection of anticipatory bail.

10. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R. No.348/2019 registered with Malvani Police Station, Mumbai, 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) Anticipatory Bail Application stands disposed of accordingly.

Digitally
signed by
Pradeepkumar
P. Deshmane
Date:
2020.12.23
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+0530

(SARANG V. KOTWAL, J.)

Deshmane (PS)