

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

923 ANTICIPATORY BAIL APPLICATION NO.219 OF 2021

**KUNDAN VIJAYSINGH PARDESHI
VERSUS
THE STATE OF MAHARASHTRA**

...
**Advocate for Applicant : Bagul D.S.
APP for Respondent: Smt.R.PGaur**

...
**CORAM : MANGESH S. PATIL, J.
DATE : 06.04.2021**

PC. :-

This is an application under Section 438 of the Cr.P.C. seeking bail in the event of arrest of the applicant in connection with Crime No.1443/2020 registered with Nandurbar City Police Station, Dist.Nandurbar for the offences punishable under Sections 392, 354, 323, 324, 325, 326, 452, 504, 506 read with Section 34 of the I.P.C.

2] The allegations in the F.I.R. in short are to the effect that the applicant alongwith his wife were taking a stroll in front of the house of the informant in the evening of 6/11/2020. The applicant hurled abuses at the informant and questioned him as to why he had dumped garbage in front of applicant's house. When the informant replied by saying that it was thrown by several other persons as well, the applicant and his wife started abusing him and applicant is stated to have made an attempt to hit the informant on head with an iron rod. The latter dodged the assault and received it on his left hand, as a result he sustained a fracture injury. He was also beaten by the couple by fists and kicks. In the meanwhile, the other accused also arrived there and

started assaulting him.

3] The learned advocate for the applicant Mr.Bagul would submit that the applicant is being falsely implicated. A false F.I.R. has been lodged belatedly as a counter blast to the F.I.R. lodged by the wife of the applicant. No incident as alleged in the F.I.R. has taken place. In fact the informant himself had assaulted the applicant on head and dislocated his shoulder. He had sustained grievous injury and his wife has lodged the F.I.R. which is first in point of time. The learned advocate would further submit that the accused from the F.I.R. lodged by the wife of the applicant have been granted anticipatory bail. Even the other accused in the present crime have all been granted anticipatory bail. There are no criminal antecedents. He is ready to cooperate the Investigating Officer. His custodial interrogation is not necessary and he may be granted anticipatory bail. Lastly, the learned advocate Mr.Bagul would submit that the applicant's mother is suffering from cancer, besides both his parents have been tested positive for Covid-19. He being the only son, there is no one else to look after them he may be granted anticipatory bail even on this sole ground.

4] The learned A.P.P. opposes the application. She submits that the offence is serious. The informant has sustained fracture injury specifically attributable to the applicant and use of iron rod by him. At this juncture involvement of the applicant in commission of crime is apparent and consequently his custodial interrogation would be necessary. Irrespective of the fact of ill health of his parents, when his involvement in the serious crime is writ large, he is not entitled to anticipatory bail.

5] I have carefully gone through the papers of the investigation.

6] It is sufficient to observe at this juncture that accepting the stand of the applicant now being taken, the very fact of registration of two counter F.I.Rs. narrating the incident to have taken place around the same time and place and there is no dispute as to the identity of the persons and they are being known to each other since prior to the incident, is sufficient to draw an inference that some incident did take place, in all probabilities, as alleged in the F.I.R.

7] The injury certificate does reveal that the informant sustained a fracture injury to the left wrist. It is his specific allegation that he had received the blow on the left hand to avoid any injury being inflicted on his head. If such is the state of affair where a grievous injury is attributable to the applicant and with an iron rod, which no person would casually carry while taking a stroll as is now being pretended by the applicant, his custodial interrogation would be necessary. He is not entitled to the discretionary relief of anticipatory bail.

8] All the sympathy with the applicant in view of ill health of his parents but in my considered view that would not come in the way and would not matter much while deciding the application for anticipatory bail in above facts and circumstances.

9] The application is rejected.

[MANGESH S. PATIL, J.]