

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 118 OF 2021

Mohammed Imran Shaikh
S/o Subrat Shaikh

... Applicant

Versus

The State of Maharashtra

... Respondent

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Mr. V. S. Tiwari, Advocate for the Applicant.

Ms. Anamika Malhotra, APP for the Respondent – State.

Ms. Reshma Pawar, P. S. I. Sewri Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 25th FEBRUARY, 2021

PER COURT:

1. This is an application for anticipatory bail in C.R. No. 226 of 2020 registered with Sewri Police Station, Mumbai for offences under Sections 326, 323, 506(2), 141, 143, 149 of Indian Penal Code (for short “IPC”).

2. The FIR was registered on 2nd December, 2020. The complaint is lodged by Hamid Jameer Khan. It is alleged that on 1st December, 2020, the brother of complainant Abraz was assaulted by 3 to 4 unknown persons and non cognizable complaint was lodged at the Police Station. Subsequently on the same day father and cousin of complainant were stopped by Imran (applicant).

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Applicant was accompanied by Wasim, Aslam & Asif. Applicant and his associates questioned father of complainant as to why the complaint has been lodged at Sewri Police Station. The father of complainant was assaulted. The complainant, his cousin Wasim Khan reached the spot. At that time Jubair, Asif @ Machhi, Guttal Shaikh, applicant, Aslam, Khalil were together. Jubair was armed with knife and threatened the complainant and others. He also started assaulting. The complainant sustained injury to his finger by knife. The applicant caught complainant and at that time Jubair had assaulted on his head, shoulder and back. Cousin of the complainant Wasim Khan tried to intervene, at that time Asif @ Macchi, Aslam, Khalil, Wasim assaulted. There was bleeding injury. After some time brother of complainant, Arbaj, Jamil, Naim & Nadim intervened. The assailants ran away from the place. Cross FIR has been registered at the instance of Shahid Shaikh @ Guttal on 3rd December, 2020 for offences under Section 326, 323, 504, 506, 141, 143, 149 of Indian Penal Code which was subsequently altered to Section 324 of Indian Penal Code. In the cross FIR it was alleged that on 1st December, 2020 at about 8.30 p.m. Aarbaj, and Jubair were fighting. Arbaj was assaulting Jubair. Jubair assaulted friend of complainant Shahid. Shahid tried to intervene, at that time Aarbaj assaulted him. Friends of Jubair had assaulted Aarbaj. At that time Aarbaj called his

brothers Badshah Hamid, Jamir & Guljar. They participated in the assault. Badshah and his associates were armed with weapons like iron rod, knife etc. The complainant Shahid was assaulted. Hamid came there. He assaulted the complainant. He was armed with iron rod. The complainant assaulted by giving blow on his head. The brother of Shahid was abused and assaulted on his head and chest by iron weapon. The father of Badshah was shouting and instigating the accused therein to assault.

3. Learned APP pointed out the injury certificate of Hamid Khan. He sustained one grievous injury and three simple injuries. She also pointed out injuries by Wasim who had sustained three simple injuries. It is submitted that the applicants were aggressors and the applicant facilitated assault of Jubair as he caught hold of injured person.

4. Whereas the learned counsel for the applicant submits that the applicant was not armed with any weapon. Role attributed to him is that he caught injured. There are cross cases. Applicant was also assaulted. Hamid Khan was assaulted by other accused. Eight persons were arrested and six were granted bail. Some of them were attributed role of assault by weapon. It is also pointed out that one more case registered against the applicant for offence under Section

324 of IPC. However, considering the fact that there are two versions of the incident and the role attributed to applicant, custodial interrogation of the applicant is not necessary. Hence, I pass the following order:

ORDER

- (i) Anticipatory Bail Application No. 118 of 2021 is allowed;
- (ii) In the event of arrest of the applicant in connection with in C.R. No.226 of 2020 registered with Sewri Police Station, Mumbai , the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend the investigating officer on 8th 9th & 10th of March, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for till filing of charge-sheet.
- (iv) Anticipatory Bail Application stands disposed of accordingly.

5. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)