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

ANTICIPATORY BAIL APPLICATION NO. 192 OF 2020

DEEPAK DATTARAM KANDALKAR & ORS. ..APPLICANTS

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Mr.Manohar S.Mandavkar i/b Mr.Prablin Singh Abrol, for Applicants.

Mr.Shailendra S. Pendse, for Intervener

Mrs. M.R. Tidke, APP for State.

Mr.Dubey, PC, Kherwadi Police Station present.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 9, 2021

P.C. :

1. Heard learned Counsel for the applicants, learned APP for the State and learned Counsel for the intervener. The FIR is registered with the Kherwadi Police Station on 01/12/2019 under sections 324, 323, 504, 506 read with section 34 of Indian Penal Code, 1860 (for short 'IPC') vide C.R. No. 242 of 2019 against the applicants. Later on, the applicants are also charged for the offence punishable under section 326 of IPC. Briefly stated, it is the case of the prosecution that the complainant – Mr.Jitendra Ratnakar

Pawar is an estate agent. He brokered a deal between the applicant no.1 who has a shop premises and one licensee. The leave and licence agreement was entered into between the parties. It appears that there were some disputes and eventually the leave and licence agreement came to be terminated. Applicant no.1 and licensee had a dispute regarding refund of the security deposit which was paid at the time of entering into the leave and licence agreement. On 30/11/2019, in the evening, the complainant visited the residence of applicant no.1 requesting him to refund the security deposit. Applicant no.1 refused to do so. There were some altercations between applicant no.1 and complainant. There are allegations and counter allegations. It is the case of the complainant that the applicant no.1 assaulted him with iron rod on his head and other parts. Applicants no. 2 & 3 who are the daughters of applicant no.1 assaulted the complainant with fist blows. The applicant no.1 suffered injuries on his head. The injury certificate produced for perusal indicates that apart from other injuries, the complainant suffered sutured CLW MJ

0.5x0.5x4 cm. over right parietal region with blunt weapon and injury was described as grievous. Two of the injuries shown in the certificate are shown to be simple injuries. The FIR is lodged by the complainant on 01/12/2019

2. Prior to the filing of the FIR by the complainant, NC is registered by applicant no.1 against the complainant on 30/11/2019 at 6.50 p.m.. In the said NC it is indicated that the complainant had visited the residence of applicant no.1 and he demanded applicant to refund the amount of security deposit. The complainant slapped the applicant no.1. When the applicant no.1's daughter intervened, she too was slapped by the complainant.

3. No doubt, the FIR is lodged by the complainant one day after the incident took place. Complainant was hospitalised the next day. The NC was lodged by the applicant no.1 on the very same day. The NC as well as FIR itself indicate that there were altercations between the applicant no.1 and complainant. The injury certificate of the applicant no.1 records that he has suffered grievous

injury on right parietal region. The rod which is allegedly used by applicant no.1 for assaulting the complainant is yet to be recovered. Learned Counsel for the applicants submitted that at this distance of time and considering that the applicant has been granted interim protection since 13/02/2020, the applicants should not be deprived of grant of pre-arrest bail. Learned Counsel submitted that the applicants have co-operated with the investigation.

4. Learned APP on instructions submits that though the applicant no.1 visited the Police Station, he did not co-operate with the investigation and the rod is yet to be recovered.

5. Having regard to the facts and circumstances of the case, I find that the allegations against the applicant no.1 are serious. There is a grievous injury on the person of the complainant as a result of assault by applicant no.1 on vital part of the body by an iron rod. However, so far as applicants no. 2 and 3 are concerned, they are the

daughters of applicant no.1 who intervened as a result of the altercations which took place. Considering the role of the applicants no.2 and 3 and the incident happened on the spur of the moment, in my opinion, while rejecting pre-arrest bail for applicant no.1, applicants no. 2 & 3 deserve to be granted pre-arrest bail. Hence, the following order.

ORDER

i) The application so far as applicant no. 1 is concerned stands rejected.

ii) The application is allowed so far as applicants no. 2 & 3 are concerned.

iii) In the event of arrest of applicants no.2 & 3 in connection with the C.R. No. 242/2019 registered with Kherwadi Police Station, applicants no.2 & 3 be released on bail on furnishing P.R. bond of Rs. 25,000/- each with one or two sureties in the like amount.

iv) The applicants no. 2 & 3 shall report to the Investigating Officer as and when called.

v) The applicants no. 2 & 3 shall furnish the particulars

of their place of residence and contact details to the Investigating Officer of the concerned Police Station within seven days from today.

vi) The applicants no.2 & 3 shall not tamper with the evidence or attempt to influence or contact the complaint, witnesses or any person concerned with the case.

v) The interim protection in favour of applicant no.1 is continued for 4 weeks from today.

6. Application is disposed of in the above terms.

(M. S. KARNIK, J.)