

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

ANTICIPATORY BAIL APPLICATION NO.940 OF 2021

Abdul Hamid Khan & anr. Applicants

versus

State of Maharashtra Respondent

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- Mr.Imran Shaikh, Advocate for Applicant.
- Mr.S.R. Agarkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 19th MAY, 2021
(through video conferencing)

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.21/2021 registered with Vinoba Bhave Nagar Police Station, under sections 326, 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and under section 4 and 27 of the Indian Arms Act.

2. The FIR is lodged by one Afroz Nisar Usmani on 25/01/2021. He has stated about the incident dated

24/01/2021, which had taken place at around 10.15 p.m. At that time, the informant was told by his brother Umer telephonically that there was some quarrel going on in the area. He went there. He saw that Umer was being assaulted by a few people including the Applicant No.1. The informant intervened. At that time, accused Abdul Hannan came there with knife, sword, bamboo and rod. The accused who were present at the spot, started assaulting the informant and his brother. It is alleged that Rahim Pathan was having a sword. Applicant No.1 was having bamboo. Applicant No.2 was having an iron rod. Bashit was having knife. Hannan was having rod. Adbul Hannan assaulted the informant with iron rod below his right eye and on his right hand. Rahim assaulted the informant with sword on his head. The informant's father tried to save him and he suffered injuries to his right hand fingers. Bashit assaulted the informant with knife on his hand. The Applicant No.2 gave blows with iron rod on his back.

3. Heard Mr.Imran Shaikh, learned counsel for the Applicant and Mr.S.R. Agarkar, learned APP for the State.

4. Learned counsel for Applicant submitted that the main role is given to Abdul Rahim who is named as Rahim Pathan in the FIR. The main injuries are caused by him with use of his sword. He submitted that this Court (Coram : Prakash D. Naik, J.) vide order dated 16/03/2021 had granted anticipatory bail to Abdul Rahim Khan @ Rahim Pathan. He therefore submitted that the Applicants' role is comparatively very minor and therefore on the ground of parity they deserve protection of anticipatory bail.
5. Learned APP produced medical certificate of the victim.
6. I have considered these submissions and have perused the medical certificates. The informant Afroz had suffered two injuries. Out of which one was simple and the other was on the head of dimension 4 x 1 x 0.5 cms. It was described as a grievous injury.

7. Farzana Usmani, Umer Usmani, Sayma Usmani, Ammar Usmani and Noor Siddiqui had suffered simple injuries. They were from the informant's group. Informant's father Dr.Nisar Usmani had suffered four injuries. Out of which there were two grievous injuries on his right hand.
8. Considering these medical certificates it appears that main injuries are caused to Dr.Nisar and the informant Afroz. All these injuries are specifically attributed to the accused Rahim Pathan @ Abdul Rahim. The said accused is granted anticipatory bail. Therefore on the ground of parity, anticipatory bail cannot be denied to the present Applicants.
9. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.21/2021 registered with Vinoba Bhave Nagar Police Station, the Applicants are directed

to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.

- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)