

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

ANTICIPATORY BAIL APPLICATION NO. 1070 OF 2021

1. Mukul Ranbir Singh
2. Rejesh Singh ... Applicants

Versus

The State of Maharashtra ... Respondent

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Mr. Chaitanya Pendse i/b. Mr. Vinayak Patil, Advocate for the Applicants.

Mr. Y. M. Nakhwa, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 26th APRIL, 2021

PER COURT:

1. This is an application for anticipatory bail in C.R. No. 138 of 2021 registered with Navghar Police Station, Dist. Thane. The First Information Report (for short 'FIR') was registered on 28th February, 2021 for offences under Sections 143, 147, 149, 324, 323, 504, 506 of Indian Penal Code (for short "IPC").

2. The complainant has alleged that there was dispute on account of payment between applicant Mukul Singh and Suman Thakur. Mukul was avoiding payment. On 27th February, 2021 at about 11.30 p.m. the accused/applicants and others came on

motorcycle. They started assaulting Suman Thakur. The complainant tried to intervene. He was assaulted by the applicants and others with fist and kick blows. They were threatened. Ankush Yadav was assaulted by fist and Coconut. The plastic waste basket also used in assaulting the complainant on his head. The assailants fled away from the place of incident. The complainant was treated for the injuries. The certificate dated 1st March, 2021 issued by the private hospital indicate that injured had suffered nasal bleeding and swelling. Grievous injury on nasal bone and displacement in the nature of fracture.

3. Learned advocate for the applicant submitted that the offence under Section 326 of IPC is not made out. No weapon was used in assault. The injured and others allegedly assaulted by fist and kick blows. N.C. complaint was lodged by the father of applicant on 28th February, 2021 for offences under Section 323, 504, 506 of IPC against Suman Thakur. The dispute is on account of partnership business.

4. Learned APP submitted that, specific role has been attributed to the applicants. The assailants were in group of 10 to 12 persons. The complainant and others were assaulted. Complainant had sustained fracture to his nasal bone.

5. It appears that the dispute between the applicant and Suman Thakur related to the partnership business. The assailants were not armed with any weapon. The dispute is between the applicants and Suman Thakur. At the time of alleged incident complainant had intervened and he sustained fracture to his nasal bone. Initially the offence was registered under Section 324, 323 of IPC. Subsequently non bailable offence under Section 326 of IPC was registered on the basis of Injury Certificate issued by private hospital. Whether the offence under Section 326 of IPC is attracted is a debatable issue. It would be decided at the time of trial. However, considering the factual aspects, the applicants need not be subjected to custodial interrogation.

ORDER

- (i) Anticipatory Bail Application No. 1070 of 2021 is allowed;
- (ii) In the event of arrest of the applicants in connection with in C.R. No. 138 of 2021 registered with Navghar Police Station, Dist. Thane, the applicants be released on bail on furnishing P. R. Bond in the sum of Rs.20,000/- each with one or more sureties in the like amount;
- (iii) The applicants shall attend the investigating officer on 3rd, 4th & 5th May, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for till filing of charge-sheet.

- (iv) The applicant shall not tamper with the evidence.
- (v) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)