

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

ANTICIPATORY BAIL APPLICATION NO.1248 OF 2021

Alauddin Jalaluddin Shah Applicant

versus

State of Maharashtra Respondent

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- Mr.Karan Mertia i/b Ankit Shukla, Advocate for Applicant.
- Smt.Anamika Malhotra, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 23rd JULY, 2021
(Through video conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.478/2019 registered with Kandivali Police Station, under sections 326, 323, 504, 506(II) & 34 of the Indian Penal Code.

2. The FIR is lodged by one Sadab Yusuf Shaikh. He has stated that there was some quarrel between the informant's father Yusuf Bakri and one Khwaja residing in that area. On

20/06/2019 at about 03.30 p.m. the informant had gone to a Tea stall to bring tea. At that time, Khwaja, Papa, Baby and the present Applicant were sitting there. Suddenly, the Applicant came near the informant with Bamboo and pushed him. The Applicant started beating him with a Bamboo. The other accused Khwaja and Papa held the informant. Baby slapped him. Khwaja went to a shop and brought an iron weapon and gave it to the Applicant. The Applicant tried to give a blow on the informant, but he put his hand up to save himself, thereby causing injury to his left hand. After that, the accused went away. After that, he took treatment. Significantly the FIR was lodged only on 29/08/2019.

3. Heard Mr.Karan Mertia, learned counsel for the Applicant and Smt.Anamika Malhotra, learned APP for the State.
4. Learned counsel for the Applicant submitted that there is a cross FIR lodged by the Applicant himself vide C.R.No.341/2019 at the same police station immediately on

20/06/2019 u/s 326, 323, 504, 506(II), 427 and 34 of the Indian Penal Code. In that FIR the Applicant had stated that the informant in this case Sadab Yusuf Shaikh had given a blow with a weapon on the Applicant's face causing bleeding injury. Learned counsel for the Applicant therefore submitted that the FIR against the present Applicant is lodged much belatedly more than 2 months, which itself shows that it is lodged as an afterthought and is lodged with exaggerated version.

5. Learned APP opposed this application. She submitted that the Applicant's anticipatory bail application was rejected by the Sessions Court on 13/03/2020. Thereafter the Applicant had not cared to approach this Court to get any relief. He was absconding all this while and therefore anticipatory bail application should not be granted to him. She however did not have any medical papers regarding the injury.

6. Learned counsel for the Applicant responded by submitting that after the lockdown was imposed in March 2020,

the Applicant had gone to his native place because his father was not keeping well. Since the Applicant had bonafide intentions, after he came back to Mumbai, he has preferred this application.

7. I have considered these submissions. The most important fact in this case is that the incident was dated 20/06/2019 and the FIR was lodged by the informant on 28/08/2019. This delay is not explained in the FIR at all. In this background, it is important to note that the Applicant himself had immediately lodged his FIR as mentioned earlier on 20/06/2019, wherein he himself had suffered injuries at the hands of the informant Sadab.

8. In any case, the incident is more than two years old. There is sufficient doubt about the informant's version about delay in lodging the FIR. The Applicant himself had immediately lodged FIR. Therefore after two years, I do not see any reason or any propriety in permitting custodial interrogation of the

Applicant in the background of the facts in this particular case.

The Applicant can be protected by an order of anticipatory bail.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.478/2019 registered with Kandivali Police Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)