

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

ANTICIPATORY BAIL APPLICATION NO. 1293 OF 2021

Ijaj Miyan Mahemood Miyan ... Applicant

Versus

State of Maharashtra ... Respondent

Mr. Mahendra N. Sandhyanshiv for Applicant.
Smt. A. A. Takalkar, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 21st JUNE, 2021
(Through Video Conferencing)

P. C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 13 of 2021 registered with City Police Station, Malegaon, Dist. Nashik, under Sections 307, 323, 324, 504 and 506 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. The First Information Report (for short 'F.I.R.') is lodged by one Farida Khan. She has stated that her son Imran was having a furniture shop at Bharat bazar, near old bus stand. On 15/02/2021, some unauthorized construction was removed by the Corporation.

Therefore, some articles from Imran's shop were kept on the road outside his shop. On 16/02/2021, at about 12.00p.m. the informant followed Imran towards their shop because informant was afraid that the applicant who was having another furniture shop across the road was likely to cause trouble. When she reached there, she saw that the applicant asked Imran to remove his furniture which was kept near Imran's shop. There was quarrel between them. The F.I.R. mentions that the applicant picked up an iron pipe which was in his shop and gave blows on the head and near left eye of Imran causing grievous injuries. The informant tried to intervene. She was pushed away. After that the assailants including the applicant went away from the spot. In the incident, applicant's brothers had taken part. Imran was taken to Civil hospital, Malegaon. But Doctors asked the informant and her family members to take Imran to a speciality hospital. Therefore, he was taken to Dhule and was admitted in Om Hospital. On this basis the F.I.R. was lodged.

3. Learned counsel for the applicant submitted that the applicant himself has lodged C.R.No.23 of 2021 at the same police station under sections 307, 326 and 506 r/w. 34 of the IPC. In that

F.I.R. it is mentioned that Imran had given a blow with cutter on the applicant's nose and neck. Thereafter the applicant was taken to Civil Hospital at Malegaon. At that time, Imran, Tanvir Khan and Sayeed came there. The applicant's brother Faiyaz was accompanying the applicant. At about 2:00p.m. on 16/02/2021 Imran's younger brother Tanvir came near them and gave a blow to Faiyaz. He, therefore, submitted that, injured Imran had instigated this assault. He had come to the hospital causing trouble which shows that complaint given by Imran's mother is not true.

4. Learned APP opposed this applicant and relied on the medical certificate of the parties.

5. I have considered these submissions. The injuries suffered by Imran were on the head. He had one CLW of dimension 7x1x1cm. There was ear bleed from left side, periorbital oedema coupled with left black eye. The certificate of Om Hospital, Dhule mentions that Imran had suffered head injury coupled with blunt and sharp object, canary left fronto temporal extradural hemorrhage, coupled with right fronto temporal subdural hemorrhage, coupled with hemorrhage contusions, coupled with blunt trauma to left eye coupled with left ear

bleed, with fracture skull. On the other hand, the applicant himself had suffered one incised wound over nose from ridge to nostril of dimensions 6x0.5x5cm. which was simple in nature. The applicant's brother Faiyaz had suffered stab wound in right hypochondrium of dimensions 7x4x5cm. and one incised wound on the right arm which was simple injury. Faiyaz's first injury is described as grievous injury. So far as injuries to Faiyaz are concerned, they were caused by Imran's brother in the hospital. That was a subsequent incident. As far as applicant is concerned, the allegations against him are that, he had assaulted Imran on the road in the first incident wherein Imran had suffered serious head injuries as mentioned earlier. In comparison, the applicant had suffered simple injuries as mentioned in the medical certificate. Thus, at this stage, there is strong material against the applicant showing that he had caused very serious injuries to Imran. He cannot contend that he acted in exercise of his right of private defence. Therefore, no case of anticipatory bail is made out.

6. The application is rejected.

(SARANG V. KOTWAL, J.)