

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.981 OF 2019

Ashraf Lala Khan

Applicant

versus

The State of Maharashtra

Respondent

Mr.Abdul Hafeez Koatwala i/by Sumaira Legal for applicnat.

Mr.R.M.Pethe, APP, for State.

PSI Chaudhari, Nirmal Nagar Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 17th July 2021

PC :

1. This is an application for pre-arrest bail in C.R.No.112 of 2019 registered at Nirmal Nagar Police Station, for offences punishable under Sections 326, 324, 323, 504 read with 34 of Indian Penal Code.

2. The substance of the prosecution case is that on 28th March 2019 at about 9.30 pm, in front of Dinesh Novelty Store, of the first informant Nitesh Jain, an altercation had taken place over parking of a motorcycle. The applicant and the co-accused abused the first informant Nitesh Jain and threatened to set the shop of the informant on fire. The applicant had caught hold the first informant Nitesh Jain and assaulted him. When the brother of the first informant came to his rescue, the applicant assaulted the first informant's brother Naresh Jain by iron stool. The co-accused also assaulted informant and the brother of the first informant.

3. The applicant asserted that in fact, the informant party was the aggressor. The informant party had assaulted him by means of a

bamboo stick, resulting in head injury. Therefore, the applicant had also lodged a report against the informant party on 29th March 2019. None of the injuries sustained by the injured persons, are grievous in nature. The offence punishable under Section 326 of IPC is not made out. Since the applicant has roots in the society, he be directed to be released on bail, in the event of arrest.

4. It was submitted on behalf of the applicant that one of the co-accused has been given the benefit of pre-arrest bail, whereas two others have been released on bail by the learned Magistrate.

5. The learned APP, per contra, pointed out that the applicant had played the main role of assaulting the injured by means of iron stool. Having regard to the nature of the allegations and gravity of the offence, the applicant may not be granted anticipatory bail.

6. While granting interim relief, this Court had observed that it is evident that there are two versions of the same occurrence leading to filing of two FIRs. It is an undisputed fact that the applicant had also sustained injuries at or about the occurrence. The FIR itself shows that it was reported that the applicant had, prior to the occurrence, injured himself by banging his head on the wall on account of a dispute with three lady customers. The truthfulness of either of these versions is a matter for trial. Upon perusal of the injury certificates of all the three injured persons, it becomes evident that none of the injured had sustained any grievous injury. In the circumstances, having regard to the nature of occurrence, in my view, a prima facie case for grant of an anticipatory bail is made out.

7. Learned APP, on instructions, submitted that during pendency of the application charge sheet is filed against applicant.

8. The applicant was granted interim protection vide order dated 14th May 2019 with direction to attend Nirmal Nagar Police Station on every alternate Sunday from 11.00 am to 01.00 pm till filing of charge sheet. The charge sheet is filed against arrested accused.

9. Considering the aforesaid aspects, custodial interrogation of the applicant is not necessary. Hence, I pass following order :

ORDER

- (i) Anticipatory Bail Application is allowed and disposed of;
- (ii) Interim order dated 14th May 2019 is confirmed;
- (iii) In the event of arrest of applicant in connection with CR No.112 of 2019 registered with Nirmal Nagar Police Station, the applicant be released on bail on executing PR bond in the sum of Rs.20,000/- and surety in the like amount.

(PRAKASH D. NAIK, J.)

MST