

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

ANTICIPATORY BAIL APPLICATION NO.1697 OF 2021

Mohd. Babumiya Mohd. Jaidul
Sardar

.... Applicant

Versus

The State of Maharashtra & Anr.

.... Respondents

....

WITH

ANTICIPATORY BAIL APPLICATION NO.1698 OF 2021

1. Rubina Babumiya Sardar, &
2. Sayama Babumiya Sardar.

.... Applicants

Versus

The State of Maharashtra & Anr.

.... Respondents

Mr. Rishi Bhuta, Advocate i/b. Neha M. Patil, for the Applicants.
Smt. M.R. Tidke, APP for the Respondent-State in ABA/1697/2021.
Mr. H.J. Dedhia, APP, for the Respondent-State in ABA/1698/2021.

CORAM : SARANG V. KOTWAL, J.
DATE : 23rd JULY, 2021
[Through Video Conferencing]

P.C. :

1. A common order is passed in both these applications because they arise out of the same offence and same investigation. For the sake of convenience, the applicants are referred to by their names in this order.

2. The applicants are seeking anticipatory bail in

connection with C.R.No.971/2021 registered at Malvani Police Station, Mumbai on 20.6.2021 under sections 326, 307, 324, 506(2), 143, 144, 147, 149, 323, 504 & 427 of the Indian Penal Code and Sections 4 and 25 of the Indian Arms Act.

3. Heard Shri Rishi Bhuta, learned counsel for the applicants, Smt. M.R. Tidke, learned APP for the State in ABA/1697/2021 and Shri H.J. Dedhia, learned APP for the State in ABA/1698/2021.

4. The FIR is lodged by one Abhishek Yadav on 20.6.2021. He has stated that the applicant Babumiya along with his three wives and fifteen children is residing in the neighbouring house. On 20.6.2021, the informant and his family were present in their house. At about 1:00 p.m., suddenly their roof broke and one small pouch fell in their premises. They found that it was Ganja. The informant came out and saw that the applicant Babumiya's son Firoz and daughter Rabiya had climbed on the roof and they had a plastic bag with them. The informant suspected that they

were concealing ganja in the roof. The informant's father went to question the applicant Babumiya. A quarrel ensued. It is alleged that the applicants' family members and in particular Babumiya's son assaulted the informant and his family members with a spade, bamboo, iron pipe etc.. It is alleged that the applicants Rubina and Sayama pulled the informant's mother's hair. The allegations against the applicant Babumiya are that he assaulted the informant on his right hand and above left eye. The other allegations are against other accused. Based on these allegations, the FIR is lodged.

5. Learned counsel for the applicants submitted that in fact in the entire incident, the applicant Babumiya had suffered fracture of two fingers. The injuries suffered by the informant and his family members are minor. Hardly any role is attributed to the applicant Sayama and Rubina. Even the role attributed to the applicant Babumiya is much minor. Therefore, their custodial interrogation is not necessary.

6. Learned APPs opposed these applications. They submitted that there are two pending cases against the

applicant Babumiya. He has five criminal antecedents, out of which he is acquitted from two cases. They submitted that looking at his antecedents, anticipatory bail should not be granted to him. However, learned APPs did not seriously oppose grant of anticipatory bail to the applicants Rubina and Sayama.

7. I have considered these submissions and I have perused the injury certificates. The injured Vivek had suffered one simple CLW. Injured Abhishek suffered one simple CLW. Another injured one Shriiprakash suffered swelling and contusion. Ajay suffered one simple CLW. Manoj has not suffered any injury. Arvind suffered three simple CLWs. Thus, none of the injured suffered grievous or life threatening injuries. The role attributed to Babumiya also is minor because according to the medical certificate, he has not caused any grievous or life threatening injury.

8. As far as the applicants Rubina and Sayama are concerned, their role is absolutely minor.

9. In this view of the matter, custodial interrogation

of the applicants is not necessary. However, considering the criminal antecedents of the applicant Babumiya, he is directed to report to the police station once a fortnight for a period of two years.

10. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.971/2021 registered with Malvani Police Station, Mumbai, the applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each with one or two sureties each in the like amount.
- (ii) The applicant Mohd. Babumiya Mohd. Jaidul Sardar shall attend concerned police station once a fortnight between 11:00 a.m. to 1:00 p.m. for a period of two years from today.
- (iii) Both the applications are disposed of accordingly.

(SARANG V. KOTWAL, J.)