

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

ANTICIPATORY BAIL APPLICATION NO.1680 OF 2021

Deepesh Manohar Kadam Applicant
Versus
The State of Maharashtra Respondent

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WITH

ANTICIPATORY BAIL APPLICATION NO.1682 OF 2021

1. Suresh Hanumant Sanai, &
2. Somnath Vijay Mhatre. Applicants
Versus
The State of Maharashtra Respondent

Mr. Sachin B. Chandan, Advocate for the Applicants.
Mr. H.J. Dedhia, APP for the Respondent-State.

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

P.C. :

1. Both these applications are disposed of by this common order because they arise out of the same investigation and same offence. For the sake of convenience, the applicants are referred to by their names. ABA No.1680/2021 is filed by the applicant Deepesh Kadam and

ABA No.1682/2021 is filed by Suresh Sanai and Somnath Mhatre.

2. Heard Shri Sachin Chandan, learned counsel for the applicants and Shri H.J. Dedhia, learned APP for the State.

3. The applicants are seeking anticipatory bail in connection with C.R.No.130/2021 registered at Khadakpada Police Station, Thane under sections 326, 324, 143, 147, 148, 323, 504, 506 of the Indian Penal Code, Sections 4 & 25 of the Indian Arms Act and Sections 37 and 135 of the Maharashtra Police Act.

4. The FIR is lodged on 17.5.2021 by one Pramod Lakhani. He has stated that on 16.5.2021 at about 6:30 p.m., a quarrel was going on in their village. At that time, the informant and his cousin Siddhanath tried to intervene. The applicant Suresh Sanai gave a blow with sickle on Siddhanath's right hand. Siddhanath went to police station to give his complaint. The informant Pramod went home. At about 8:30 p.m., the applicant Somnath, other accused

Mangesh and Sunita came to the informant's house, abused his mother and wife and beat her. The informant went to save them. At that time, the applicant Somnath and other two accused Mangesh and Sunita went away towards their house. The informant followed them to their house. At that time the accused Vijay, Sumitra, Deepesh, Akash, Raju and Roshan beat them with fist and kick blows. There are allegations that the applicant Somnath gave a blow with sword on his left palm and right elbow. The accused Sunita gave a blow on the informant's face causing loss of two teeth. The informant went thereafter to Khadakpada police station and lodged this FIR.

5. Heard Shri Sachin Chandan, learned counsel for the applicants and Shri H.J. Dedhia, learned APP for the State.

6. Learned counsel for the applicants submitted that the FIR is not based on true facts. In fact the informant himself had given blows with knife to the applicant Somnath on his left hand and left side of stomach causing serious injuries. The present FIR is lodged as a counter blast. The FIR

given by the applicant Somnath in respect of injuries suffered by the applicant Somnath at the hands of Pramod Lakhan is registered at the same police station vide C.R. No.131/2021, Under Section 324 of IPC. Later on Section 326 of IPC was added.

7. Learned APP opposed this application and relied on the medical certificates of the injured. He, however, conceded that there was a counter FIR in which the applicant Somnath had suffered grievous injuries on his stomach and, therefore, Section 326 of IPC was added to that counter FIR.

8. I have considered these submissions. The medical certificates produced before me show that one Siddhanath had suffered laceration on right hand, which is described as simple injury. The informant Pramod had suffered one CLW on left forearm which is described as simple injury. He had suffered another incised wound on the head which is also described as a simple injury. However, the third injury was near his eye. It is mentioned that there was loss of vision and it was described as a grievous injury.

9. Therefore, at this stage, it appears that the first informant had suffered one serious injury near his eye. This has to be seen in the background of the counter FIR wherein, as admitted by learned APP, the applicant Somnath had suffered grievous injury on his stomach. Therefore, the allegations in the FIR against the present applicants do not appear to be completely true. The FIR also mentions that the informant Pramod himself had chased three accused i.e. applicant Somnath, Mangesh and Sunita to their house and then this main incident had taken place. This also shows that in the incident in question, the first informant Pramod could be the aggressor and his acts could have given reasonable apprehension of suffering grievous injuries by the accused in this case.

10. In this view of the matter, sufficient doubt is created about the allegations made by the first informant. Therefore, the applicants can be protected by an order of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.130/2021 registered with Khadakpada Police Station, Thane, 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 applicants shall attend the concerned police station as and when called and shall cooperate with the investigation.
- (iii) Both the applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)