

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

ANTICIPATORY BAIL APPLICATION NO. 1717 OF 2021

Mohammad Kalim Shaikh	 Applicant
Versus	
The State of Maharashtra & Anr.	 Respondents

Ms. Falguni Brahmbhatt for Applicant.

Mr. S. S. Pednekar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 26th JULY, 2021

(Through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.84 of 2019 registered at Charkop Police Station, under sections 326, 324, 504 and 506 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Heard Ms. Falguni Brahmbhatt, learned counsel for the applicant and Shri. Swapnil Pednekar, learned APP for the State.

3. The incident is old and charge-sheet against other accused is already filed in December 2019. The First Information Report (for short 'F.I.R.') mentions that, it was lodged against one

Bhushan Thakur and his associates. The F.I.R. was lodged by one Aayakkan Shetty. He has stated that, he was a rickshaw driver. On 17/03/2019, at about 6:00 p.m. he came to Hindustan naka, Charkop, Kandivli (W). At that time, his friend Zakir who was also a rickshaw driver, told him that Bhushan and his friends were breaking the queue and were keeping their rickshaws before their turn. When Zakir had questioned them, they had abused and assaulted Zakir. The informant came to know about this incident from Zakir. He went to Bhushan and questioned him about the incident. At that time, Bhushan and his three associates started abusing the informant and his group. It is alleged that, Bhushan gave a blow with iron pipe on the informant's left leg, waist and stomach. He also assaulted one Shivprakash on his head. The informant's other friends were also assaulted. Thereafter, this F.I.R. was lodged. The F.I.R. mentions that the informant had suffered fracture of his leg and Shivkumar had stitches on his head.

4. Learned counsel for the applicant submitted that the matter is already settled between the parties and consent terms to that effect are annexed to the petition for quashing filed before the

Division bench of this court. She submitted that, in any case, applicant's name is not mentioned in the F.I.R.

5. Learned APP submitted that the applicant's name was revealed during the interrogation of one of the arrested accused.

6. I have considered these submissions. I specifically asked learned APP as to why the applicant was not arrested since March 2019. He submitted that, his name was disclosed in August 2019 and the police had gone to search for him. The charge-sheet in this case against other accused was filed in December 2019. Learned APP, on instructions, stated that, since December 2019 no attempts were made to arrest this applicant. In this view of the matter, I do not see any reason as to why police now want to arrest the applicant after a gap of one and half years from December 2019. The incident had taken place even much prior to that i.e. in March 2019. The F.I.R. does not mention name of the present applicant. The role of assault is specifically attributed to Bhushan. He is the person who had caused fracture of the informant's leg. Moreover, F.I.R. shows that, it was the informant who had gone to question main accused Bhushan and his associates. Therefore,

there is a strong possibility that informant's group was the aggressor group. In this view of the matter, after so many months, applicant's custodial interrogation, in the background of these facts, is not necessary. He can be protected by an order of anticipatory bail.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.84 of 2019 registered at Charkop Police Station, the applicant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)