

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

ANTICIPATORY BAIL APPLICATION NO. 1721 OF 2021

1. Satyam Vaijanath Gurukhel
 2. Babu Kisan Sutar @ Vaibhav
 3. Puran Arun Singh
 4. Kannan Selwam Swami
- Applicants

Versus

The State of Maharashtra

.... Respondent

Mr. Sandeep R. Karnik, for the applicant.

Mr. H.J. Dedhia, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 28th JULY, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 660 of 2021, dated 06/07/2021, registered at MIDC Police Station, under sections 324,326, 504, 506 read with Section 34 of the Indian Penal Code.

2. Heard Mr. Sandeep Karnik, learned counsel for the applicants and Mr. H.J. Dedhia, learned APP for the State.

3. The FIR is lodged by one Jitesh Shinde. He has stated that he and his associates were given job in construction of Metro. He was given work of loading and unloading of accelerators which he was to carry out on 06/07/2021. However, the applicant No. 1 was obstructing the first informant and others. At about 01.00 p.m., he called the applicant No.1 to the site. The applicant No. 1 abused him on telephone. At 2.15 p.m., the applicant no. 1 and his associates came there and started quarreling with the informant and his associates Rahul Lahase, Suraj Teli, Rakesh Kamble. According to the first informant, the other applicants were present with the applicant No. 1. at that time. The first informant Jitesh Shinde tried to go towards Police station. The applicants followed him in a rickshaw and in the quarrel, the applicant no.1 removed a bat from his rickshaw and gave a blow on the right hand of the informant. The applicant No. 3 gave a blow with knife on the head of the first informant. The other associates of the first informant were assaulted with kicks and fists blows. After that, they left the place. The informant and others were taken to Cooper hospital. The informant's three fingers of right hand were fractured. On this

y.s.patil

basis the FIR is lodged.

4. Learned Counsel for the applicant submitted that the applicant No. 2 Babu Kisan Sutar @ Vaibhav has given his own FIR. It is registered on 07/07/2021, vide C.R. No. 661/2021 at the same Police Station mainly under section 326 of the Indian Penal Code. In that FIR he has given the applicants' version in which it is mentioned that aforementioned Jitesh Shinde gave a blow with bamboo on applicant No 2's right hand. Applicant Puran was also assaulted with a sharp weapon. Shri Karnik therefore submitted that the FIR against the present applicants does not reflect the true story. The applicant's group was assaulted by Jitu Shinde and his associates.

5. Learned APP opposed this application and produced medical certificates in both these offences before me.

6. I have considered these submissions. As far as the FIR against the applicants are concerned, the first informant Jitesh Shinde has suffered fracture of three fingers of his right hand.

There are allegations of a blow on the head. However, at the time of examination, Jitesh Shinde was found conscious. There are no further details at least in the medical papers produced before me. Jitesh Shinde's associate Rahul had tenderness on the leg, contusion on the head and swelling on the head. These injuries also do not appear to be serious.

7. As far as the counter FIR lodged by the applicants' group is concerned, the applicant Puran's injury certificate shows that he has suffered 11 cm long incised wound on his back. The applicant Vaibhav had also suffered a minor injury. The medical certificates are taken on record and marked as "X"(collectively) for identification.

8. From the submissions made by learned Counsel for the applicants and the injury certificates produced before me; it does appear that there was a fight between the two groups. In this particular case it is not clear as to which of these two groups was the aggressor. The applicant Puran has suffered long incised wound on his back which also show that the other group i.e. Jitesh y.s.patil

Shinde's group had used a sharp weapon. All these facts are not mentioned in the FIR. Therefore, sufficient doubt is created about exact nature of the occurrence of the incident. Therefore, applicants' custodial interrogation will not be justified. They can be protected by an order of anticipatory bail. The offence has not escalated to a higher degree.

9. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R. No.660 of 2021, registered with MIDC Police Station, the Applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) 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 co-operate with the investigation.
- (iii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)