

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

ANTICIPATORY BAIL APPLICATION NO. 1822 OF 2021

Sarvanan Durai Thevar	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Jigar Agarwal a/w. Neha Rane for Applicant.
Smt. Anamika Malhotra, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 05th AUGUST, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 266 of 2021 registered at Wadala T. T. Police Station, under sections 326 of the Indian Penal Code (for short 'IPC'), under sections 4 and 21 of the Indian Arms Act and under section 37(1)(A) r/w. 135 of Maharashtra Police Act.
2. Heard Shri. Jigar Agarwal, learned counsel for the applicant and Smt. Anamika Malhotra, learned APP for the State.
3. The First Information Report (for short 'F.I.R.') is lodged by one Aarmogam Tewar. He has stated that, he is

originally native of Tamil Nadu. He was having his Idli stall at Kurla and was residing at Mhada Chawl, Kokri Agar, Sion-Koliwada. The F.I.R. mentions that, he has long standing dispute with the applicant, Ramesh Tewar and Durai Tewar. On 05/07/2021, at about 8:00p.m. the applicant met the informant near his house. There was a quarrel. The applicant threatened him. The informant got angry. After some time, the informant went to the applicant's house. He saw the applicant, Ramesh Tewar and Durai Tewar sitting there. The informant himself picked up a sickle which was lying there and gave a blow on the neck of Durai Tewar. He also gave a blow on back of Ramesh Tewar. When the informant was trying to escape, at that time, the applicant gave a blow with sword on the back of his head. The informant went to Sion Hospital and got admitted. Thereafter this F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the applicant has filed three F.I.Rs. against the informant in the past and there are number of N.Cs., as well. He submitted that, the F.I.R. itself mentions that, the informant was aggressor.

5. Learned APP opposed this application and submitted

that the applicant has one antecedent against him in the form of offence under section 324 of IPC registered at the same police station. On this ground she opposed this application.

6. I have considered these submissions. The F.I.R. itself shows that the informant himself had gone to the applicant's house. He was the aggressor. He picked up a sickle and gave blows to the applicant's companions. Therefore, the applicant had reasonable apprehension of suffering grievous injury or life threatening injury at the hands of informant who was using a deadly weapon. In this view of the matter, there is a reasonable scope to believe that the applicant had exercised his right of private defence. The medical certificate produced before me shows that the informant had suffered CLW over occipital region of the size 8 cm. X 0.2 x 0.2 cm. and abrasions over both hands. However, considering the background of the case, it is more than clear that the informant was the aggressor and the applicant had acted in exercise of his right of private defence. In this view of the matter, applicant's custodial interrogation is not necessary. He can be protected by an order of anticipatory bail. Considering the

antecedent, the applicant is directed to attend the concerned police station and to cooperate with the investigation.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 266 of 2021 registered at Wadala T. T. 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) The Applicant shall attend the concerned Police Station once in a fortnight till the charge-sheet is filed and shall co-operate with the investigation. In addition, the applicant shall attend the concerned police station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)