

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

ANTICIPATORY BAIL APPLICATION (ST) NO.979 OF 2020

Datta Sahebrao Jadhav & Anr.

.... Applicants

versus

State of Maharashtra

.... Respondent

.....

- Mr.S.L. Mhatre a/w Jagdish Shetty, Advocate for Applicant.
- Mrs.J.S. Lohokare, APP for the State/Respondent.
- API R.B. Mahala, attached to Kamothe Police Station, present.

CORAM : SARANG V. KOTWAL, J.

DATE : 11th JANUARY 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.512/2020 dated 16/11/2020 registered with Kamothe Police Station, Navi Mumbai, under sections 326, 143, 147, 149, 427, 504 of the Indian Penal Code. Subsequently on 26/11/2020 section 307 of IPC was also added.

2. Heard Mr.S.L. Mhatre, learned counsel for the Applicant and Mrs.J.S. Lohokare, learned APP for the State.

3. The FIR is lodged by one Gururaj Anand Shetty. He has stated that on 15/11/2011 at about 01.30 p.m. two customers came to the informant's hotel known as 'The Village Hotel' at Sector 21, Kamothe. Those two customers had liquor. At about 10.30 p.m. they came to the counter for making payment. The customers gave their debit card for making payment. However, the transaction could not go through. Therefore one of them who was wearing yellow T shirt, made payment through Google Pay. But at the same time, his debit card was also debited. Therefore there was angry discussion between those two customers and the hotel staff. At that time, the person who was wearing a red T shirt, made a phone call. After that, some more persons came with sticks and iron rod. They came in an Innova car. The first informant was assaulted. They damaged property of the hotel and then they went away. The informant was taken to hospital and was treated.

4. Learned counsel for the Applicant submitted that the

Applicant had made the payment and he was only making enquiries about double deduction of the bill. He was not instrumental or was connected with the attack on the first informant. He submitted that he is a lecturer and is doing Ph.D. The Applicant's career will be ruined if he is arrested.

5. Learned APP produced investigation papers before me. She opposed grant of anticipatory bail on the basis of statement of first informant and other witnesses.

6. Reasons -:

The medical papers show that the first informant had suffered fracture of his leg and therefore section 326 of IPC was applied. It is doubtful whether section 307 of IPC is made out in this case. The narration in the FIR shows that the Applicant had made the payment and there was some quarrel, but the phone call, calling other accused was made by his companion. The Applicant himself had not called any person. The FIR also does not mention that thereafter the Applicant took any part in

assault on the first informant. Therefore as rightly submitted by the learned counsel for the informant that there is scope to believe that the Applicant had not shared common intention or common object with the other accused causing damage to the hotel property and causing fracture to the first informant. The Applicant is pursuing academics and is a lecturer. His arrest will definitely cause prejudice to him. Custodial interrogation, in the fact and circumstances of the case, does not appear to be necessary. Therefore anticipatory bail can be granted to him.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.512/2020 dated 16/11/2020 registered with Kamothe Police Station, Navi Mumbai, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

- (ii) 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.)