

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1875 OF 2021**

Badshah Mahmood Muzakkir Husain Ansari .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.1883 OF 2021

Imran Izhar Khan .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.Kuldeep S. Patil i/b Ms.Saili Dhuru for the Applicants.

Mr.Nitin Satpute with Mr.Nikhil Kamble and Pallabi Chatterjee
for the Intervenor.

Mr.A.R.Kapadnis, APP for the State.

PSI Anande attached to Chunabhatti Police Station present.

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CORAM: BHARATI DANGRE, J.

DATED : 17th AUGUST, 2021

P.C:-

1. The applicants are seeking pre arrest bail in C.R.No.327 of 2021 registered with Chunabhatti Police Station, invoking Sections 324, 326, 379, 504, 506 read with Section 34 of IPC.

2. The complainant is one Afzal Qureshi, resident of Diamond Hill Co-operative Housing Society. Applicant-

Badshah Mahmood Muzakkir Husain Ansari is the Chairman of the said Society whereas Mr. Ayub Ansari is the Secretary of the Society. There is a strife between the duo on account of a plot adjoining to the said Housing Society where the construction is coming up. Applicant-Badshah Mahmood Muzakkir Husain Ansari is alleged to have supported the said construction whereas other faction, opposes the said construction and this gave rise to a brawl between the two groups. The complainant alleged about an incident, which has taken place on 23/05/2021 and the occasion was the meeting of the Society, which was attended by the office bearers of the Society. The complainant and his brother Saqlain were also present in the meeting. The conduct of the said meeting was opposed by the applicant-Badshah Mahmood Muzakkir Husain Ansari and as soon as the meeting started, ruckus was created by his supporters and the abuses were hurled and it is alleged that the applicant- Badshah Mahmood Muzakkir Husain Ansari assaulted Saqlain by means of bamboo stick whereas applicant-Imran Khan picked up a plastic chair and hit his brother Saqlain, which resulted into an injury on his head. Somehow, he was rescued and taken to the hospital.

3. The injury certificate of Saqlain issued by the Sion Hospital records one friction abrasion of 0.5 cm x 0.5 cm on the left lateral malleolus (bone of the ankle). The injury is described as simple injury. The MRI of brain was carried out on 04/06/2021 and the report is placed on record. It does not reflect any intense injury and rather the conclusion recorded does not attribute any midline shift or altered diffusivity in left

ventral hemipons. The incident prompted the Investigating Officer to invoke Sections 324 and 326 of IPC.

4. After statement of one of the watchman of the Society was recorded on 11/06/2021, offence punishable under Section 379 has been added. The watchman, namely, Mohd. Yusuf Faruk Qureshi state that on the date when the alleged incident took place and when he was collecting the chairs and other material which was scattered around, he saw applicant-Badshah Mahmood Muzakkir Husain Ansari and his associates removing DVR machine from the cabin of the watchman. Pertinent to note that the said statement came to be recorded on 11/06/2021, much after the alleged incident, dated 23/05/2021. There is no reason why the said person should keep mum for such a long time. In any case, this is a matter for investigation and the investigating officer would follow the necessary pursuit.

5. When the applications are perused, learned counsel Mr.Patil has invited my attention to an FIR vide NO.328 of 2021 registered on the next day by Badshah Mahmood Muzakkir Husain Ansari, which revolve around the meeting of the Society and when he noticed the ruckus in the meeting and he attempted to intervene, he was assaulted by a pointed weapon and he attribute the assault to Saqlain Qureshi. The learned APP states that the injury sustained is a simple injury and the said C.R. invokes Sectons 323, 324 read with Section 34 of the IPC.

6. When the cross FIRs perused with the accusations spelt out, it can be seen that the same are registered on account of feud between the two groups in relation to the construction upcoming on the adjoining plot. The injured Saqlain has sustained a simple injury, which do not warrant any custodial interrogation of the present applicants and, therefore, they are entitled for protection in the event of their arrest, subject to the stipulation that they will render all their co-operation during investigation.

: **ORDER** :

- (a) The application is allowed.
- (b) In the event of arrest in C.R.No.327 of 2021 registered with Chunabhatti Police Station, applicant-Badshah Mahmood Muzakkir Husain Ansari and applicant-Imran Izhar Khan shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- each with one or two sureties of the like amount.
- (c) The applicants shall report to the concerned police station as and when called for.
- (d) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with the prosecution evidence.

(SMT. BHARATI DANGRE, J.)