

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

ANTICIPATORY BAIL APPLICATION NO.2258 OF 2021

Shrikant Vijay Kotalkar

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Vikrant V. Phatate, Advocate for Applicant.
- Mr.Y. M. Nakhwa, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 21st SEPTEMBER, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.613/2021 dated 08/08/2021 registered with Pandharpur Police Station, Solapur, under sections with 324 and 506 of the Indian Penal Code. Subsequently, section 326 of the Indian Penal Code is also added.

MANUSHREE
V
NESARIKAR

Digitally signed by
MANUSHREE V
NESARIKAR
Date: 2021.09.22
15:45:50 +0530

2. The FIR is lodged by one Kiran Suresh Koli. He has stated that he was working with the present Applicant since about 5 years on the salary of Rs.10,000/- per month. He had

Nesarikar

taken Rs.3,50,000/- by way of loan, in November 2019 from the Applicant for his own marriage. He was making some payment every month in repayment of that loan. He has alleged in the FIR that about 4-5 months prior to the incident in question, the Applicant told him to sign a document to transfer his room in favour of one Shivaji Koli. The informant resisted. The Applicant forcibly put a lock on that room.

3. It is further mentioned in the FIR that on 05/08/2021, the informant had gone to the agricultural field of the Applicant. At about 10.30 a.m. the Applicant came to the field. He called the informant in a room. He scolded him and gave him blows with an iron pipe on his knee, legs and back. The informant lodged his FIR on the next date. He was sent for medical examination. On this basis, FIR is lodged.

4. Heard Mr.Vikrant V. Phatate, learned counsel for the Applicant and Mr.Y. M. Nakhwa, learned APP for the State.

5. Learned counsel for the Applicant submitted that the allegations of commission of offence punishable u/s 326 of IPC have surfaced belatedly on 17/08/2021. Till then there were no allegations of causing grievous injury. The medical certificate relied on by the investigating agency for the purpose of attracting section 326 of IPC mentions fracture of little finger. He submitted that in the FIR there are no allegations that any blow was given on the hand of the first informant.
6. Learned APP opposed this application. He submitted that the medical certificate in respect of fracture of hand is given by a 'City Accident Hospital', when the informant was examined on 09/08/2020. It was a private hospital.
7. I have considered these submissions. I have perused the investigation papers. The first medical certificate is issued by Sub-District Hospital, Pandharpur, which shows four injuries. There were two blunt traumas on leg and back. There was one laceration and one healed abrasion. All these injuries were

simple. Subsequently another certificate was issued by a private hospital, known as City Accident Hospital, wherein it was mentioned that on examination on 09/08/2021 it was noticed that there was fracture of little finger. There is no mention of other injury in that medical certificate. As rightly submitted by learned counsel for the Applicant, there is no allegation that the informant was assaulted on his hand by the present Applicant.

8. Mr.Phatale further submitted that the informant's case that the Applicant had put his own lock on the informant's room is not correct.

9. In this view of the matter, there is some doubt created about the version of the first informant and particularly in respect of his injury to the little finger. Therefore custodial interrogation of the Applicant is not justified. He can be protected by an order of anticipatory bail.

10. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.613/2021 registered with Pandharpur Police Station, Solapur, the Applicant is directed to be released on bail on his furnishing PR 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.)