

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2014 OF 2019

1. Haridev Jyotiram Landge
2. Shishir Vasant Atkari
3. Firoz Ajij Shaikh
4. Sohel Ajij Shaikh

... Applicants

Versus

The State of Maharashtra

... Respondent

.....

Mr. Akhilesh Singh i/b. Ms. Neeta Singh, Advocate for the Applicants.
Ms. M. R. Tidke, APP for the Respondent – State.
Mr. Rajan Dhuri, Sakinaka Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 22nd FEBRUARY, 2021

PER COURT:

1. This is an application for anticipatory bail in C. R. No. 657 of 2019 registered with Sakinaka Police Station, Mumbai for offences under Sections 326, 323, 504 r/w Section 34 of Indian Penal Code. The FIR was lodged on 17th August, 2019 against unknown persons.

2. The case of the complainant is that on 17th August, 2019 he received call from his relative Parvez Shah that he had altercation with unknown rickshaw driver while riding motorcycle and that he has been assaulted by friends of rickshaw driver. He had approached

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Police Station for lodging complaint and the Police are taking him to the place of assault. The complainant proceeded to the said place. He saw his relative Parvez Shah, his friend Amjad Khan, Majhar and Police Constable. Parvez Shah pointed out the persons who had assaulted him. Amjad Khan clicked photographs of the persons who assaulted Parvez Shah. The accused assaulted and abused Parvez Shah, Amjad Khan, Majhar. One of them gave blow by bamboo on the head of the complainant. Amjad Khan and Majhar were assaulted by bamboo. The assailants then ran away from the spot.

3. At the instance of the brother of applicant No.1, cross FIR was lodged on 18th August, 2019 vide C.R. No.662 of 2019 for offences under Sections 452, 323, 143, 147, 149, 504, 506(2), 427 of Indian Penal Code.

4. Learned Advocate for the applicants submitted that the applicants are falsely implicated in this case. Cross FIR has been registered against opponents. In the FIR it was mentioned that the unknown persons had assaulted the complainant and others. The injured persons had not sustained any grievous injury.

5. Learned APP submitted that the complainant was assaulted on his head and leg by bamboo. He had sustained CLW and contusions on the head. The Citi Brain Report was awaited and

therefore the nature of injury could not be determined. Statement of Amjad Khan and Parvez Shah were recorded. Parvez Shah has stated that the unknown persons had assaulted them. Amjad Khan has also stated that the accused had assaulted them. Subsequently he came to know the names of assailants as Harish and Sohail Shaikh. Learned APP submitted that Harish is applicant No.1 and Sohail Shaikh is applicant No.4 in this application.

6. On perusal of the documents it is apparent that according to complainant he is relative of Parvez Shah on receipt of call from Parvez, the complainant proceeded to the place. Previous assault was on account of the road rage. The photographs of the assailants were clicked. Parvez Shah with police. The bamboo stick was allegedly lying at the spot and the same was used while assaulting. The incident had occurred at the spur of moment. The assailants had no enmity with complainant. Cross FIR relating to the same incident had been registered. Amjad Khan, Parvez Shah, Kayyum and others were accused in the cross complaint registered for offence under Section 452, 323, 143, 147, 149, 504, 506(2) & 427 of Indian Penal Code.

7. The accused in the cross complaint were granted anticipatory bail. The nature of injuries sustained by the complainant

is not reflected in report dated 17th August, 2019.

8. In these circumstances, the applicants need not be subjected to custodial interrogation. The applicants were granted interim protection by order dated 20th September, 2019. It is not reported that the protection was misused by them. It is not disputed that the applicants are not having any criminal antecedents. Hence, interim order dated 20th September, 2019 can be confirmed.

ORDER

- (i) Anticipatory Bail Application No.2014 of 2019, is allowed;
- (ii) The interim order dated 20th September, 2019 is hereby confirmed.
- (iii) In the event of arrest of the applicants in connection with C. R. No. 657 of 2019 registered with Sakinaka Police Station, Mumbai, the applicants be released on bail on furnishing P. R. Bond in the sum of Rs.15,000/- each with one or more sureties in the like amount;
- (iv) The applicants shall attend the investigating officer as and when called for till filing of charge-sheet;
- (v) The applicants shall not tamper with evidence.
- (vi) The applicants shall not approach the complainant and other witnesses.

(vii) Anticipatory Bail Application stands disposed of accordingly.

9. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)