

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

ANTICIPATORY BAIL APPLICATION NO.2733 OF 2019

1. Mohammed Israfil Ansari, &
2. Rizwan Abdul Aziz Ansari. Applicants
Versus
The State of Maharashtra Respondent

Mr. Irfan Ansari, Advocate i/b. Mohammed A. Siddiqui, for the Applicants.

Smt. J.S. Lohokare, APP for the Respondent-State.

PSI S.G. Barkade, Neharunagar police station is present.

CORAM : SARANG V. KOTWAL, J.

DATE : 18th SEPTEMBER, 2021

P.C. :

1. The applicants are seeking anticipatory bail in connection with C.R.No.159/2019 dated 17.5.2019 registered at Nehru Nagar Police Station, Mumbai under sections 332, 353, 504, 506 read with 34 of the Indian Penal Code.

2. Heard Mr. Irfan Ansari, learned counsel for the applicants and Smt. J.S. Lohokare, learned APP for the State.

3. The FIR is lodged by one Shankar Avhad, who was

working as a Security Guard with the State Security Force. He was on duty at Tilak Nagar Railway Station at about 3:30 p.m. on 17.5.2019. At that time, there was some altercation with the accused Abdul Kadir on the issue of parking of the motorcycle. The accused Abdul Kadir insisted on parking his vehicle at a particular place. It was obstructing the traffic. A quarrel ensued and he slapped the informant. He called three of his friends. The informant was also joined by RPF Personnel. It is alleged that after some time, three persons came there and started beating the informant. The informant's colleagues then took him in the office. The police reached the spot. The main accused Abdul Kadir and other accused Irfan Abdul were taken to police station and were arrested. The case of the prosecution is that both the applicants were the persons who had come to the spot subsequently and then had taken part in the incident. On this basis, the FIR was lodged.

4. Learned counsel for the applicants submitted that the applicants were granted interim protection by this Court

(Coram: Sandeep K. Shinde, J.) vide order dated 13.12.2019. They were directed to report to the investigating officer on 18th, 26th December, 2019 and on 5th and 12th January, 2020. He submitted that the applicants have attended the police station. He further submitted that the applicants were on interim protection since December, 2019. Applicant No.2 is a public servant working with Railway Department. Their custody is not necessary.

5. He further submitted that the main accused in this case i.e. Abdul Kadir had himself lodged a private complaint vide Criminal Case No89/SW/2019 in the Court of Metropolitan Magistrate, 34th Court, Vikroli, Mumbai and in that case process was issued against the first informant in this case.

6. Learned APP submitted that though the applicants attended the police station, they were directed to report to the investigating officer. In spite of this, they merely went to the police station and got acknowledgments from the duty officer. This can be termed as non cooperation with the investigation.

She further submitted that the nature of allegations disentitles them from any protection. She produced the injury certificate of the first informant before the Court.

7. I have considered these submissions. The informant had suffered two minor injuries. They are described as simple injuries. The third injury is mentioned as “body ache”. Thus, it appears that in the incident the informant had not suffered any serious damage. There are counter allegations which are reflected in the private complaint filed by the main accused Abdul Kadir.

8. The applicants are on interim protection since December, 2019. That is a long period. Therefore, their custodial interrogation will not yield any substantial material because the incident is seen by others and the investigation is already carried out. Therefore, after all these years, I am not inclined to vacate the interim order granted in favour of the applicants. Instead, they can be directed to attend the concerned police station as and when called. They shall cooperate with the investigation. If they do not cooperate

with the investigation, the State is at liberty to make an application for cancellation of the protection granted in this case. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.159/2019 registered with Nehru Nagar Police Station, Mumbai, the applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each with one or two sureties each in the like amount.
- (ii) The applicants shall attend the concerned police station as and when called and they shall cooperate with the investigation.
- (iii) Anticipatory Bail Application stands disposed of accordingly.

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2021.09.20
11:49:01 +0530

Deshmane (PS)

(SARANG V. KOTWAL, J.)