

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

ANTICIPATORY BAIL APPLICATION NO. 53 OF 2022

1. Salman Riyaz Momin
2. Momin Ishetyal Aslam
Versus
The State of Maharashtra

.... Applicants
.... Respondent

Mr. Ramdas Hake Patil for Applicant.
Mr. P. H. Gaikwad, APP for State/Respondent.
Mr. Kushal Mor for Intervenor.

CORAM : SARANG V. KOTWAL, J.
DATE : 13th JANUARY, 2022
(through Video Conferencing)

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.448 of 2021 registered at Bhiwandi city Police Station, under section 326 r/w. 34 of the Indian Penal Code (for short 'IPC'). Initially, the offence was registered only under section 324 of IPC. Subsequently, Section 326 of IPC was added.

2. Heard Shri. Ramdas Hake Patil, learned counsel for Applicants, Shri. Gaikwad, learned APP for State and Shri. Kushal Mor, learned counsel for Intervenor.

3. The First Information Report (for short 'F.I.R.') is lodged by one Anam Momin on 25/11/2021. He has stated that, he has some minor issues with the applicant No.1. On 23/11/2021, when the informant was going with his younger sons, the applicant No.1 came in front of him and looked angrily at the informant. The informant questioned him. The quarrel ensued. The applicant No.1 started abusing the informant. The informant told the applicant No.1 that he intended to lodge police complaint. The applicant No.1 got angry. The applicant No.2 and two others caught hold of the informant. The applicant No.1 went to a Vada Pav center and brought frying tool (*zara*) and gave a blow on the informant's head. The accused Aavesh gave a blow on the informant's right wrist. The informant rushed to the police station. He was given memo for medical examination. The informant went to IGM Hospital, got medical treatment there and then lodged this F.I.R.

4. Learned counsel for the applicants submitted that, all the injuries are simple in nature. The incident occurred in a spur of moment. The informant was also responsible for picking up the

quarrel. There is a cross complaint.

5. Learned APP, as well as, learned counsel for the intervenor submitted that there are antecedents against both the applicants. The certificate issued by private hospital shows that there are two grievous injuries.

6. I have considered these submissions. As far as, injury certificate issued by Government hospital is concerned, it mentions four C.L.Ws., one contusion and one abrasion. All these injuries were described as simple injuries. The injury certificate issued by private hospital shows that, there were two grievous injuries, one was CLW on forehead and other was on right iliac area. However, no special reason is given as to why these injuries were described as grievous injuries within the meaning of section 320 of IPC. The injury on forehead was described as 'irregular bone deep cut injury'. Further examination shows that there was no significant brain parenchymal abnormality and there was mild scalp soft tissue swelling noted in the frontal region on left side. Thus, it is doubtful whether that injury would be a grievous injury. Further examination of the other injury has shown that there was minimal

free fluid noted on the right iliac fossa. Thus, there is scope to believe that all the injuries are simple as described in the Government Hospital's medical certificate. The description of the incident shows that, it had occurred on a spur of moment. The informant has also picked up a quarrel with the applicant No.1. As per the allegations, the applicant No.1 picked up a frying tool from the nearby *vada pav* center. Therefore, there was no premeditation and preparation. Considering the overall nature of allegations, custodial interrogation of the applicants will not be required. However, considering the antecedents, the applicants are directed to report to the concerned police station to keep check on their activities.

7. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.448 of 2021 registered at Bhiwandi city Police Station, the applicants are directed to be released on bail on their furnishing P. R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties

each in the like amount.

- (ii) The Applicants shall attend the concerned Police Station once in every week till filing of the charge-sheet and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)