

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

ANTICIPATORY BAIL APPLICATION NO.449 OF 2022

Salim Abdul Wahab Khan Applicant

versus

State of Maharashtra Respondent

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- Mr.Kuldeep S. Patil i/b. Heena Suvarnkar, Advocate for Applicant.
- Smt.Rutuja Ambekar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 22nd FEBRUARY, 2022

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.1065/2021, dated 20/09/2021, registered with Valiv Police Station, Mira Bhayander, under sections 326, 147, 148, 149, 504, 506, 427 of the Indian Penal Code.

2. Heard Mr.Kuldeep S. Patil, learned counsel for the Applicant and Smt.Rutuja Ambekar, learned APP for the State.

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3. The FIR is lodged by one Anilkumar Kevaldhar Giri. He has stated that he was in the business of real estate in Nalasopara. On 19/09/2021 at about 10.30 a.m. when he had gone to house No.3588/2, which was owned by him, he saw that one tenant by name Vahid Khan was residing with his family. The informant questioned him. The said person got angry and abused him. His relatives including the present Applicant's son, Ashraf and Ismile came there with iron rods and sticks. They assaulted the informant on his head with sickle. He was also assaulted with iron rod, sticks etc. he had suffered fracture of his hand. He lost money and gold chain in that incident. The people in the locality took him to hospital for treatment. On this basis, this FIR is lodged.

4. Learned counsel for the Applicant submitted that the charge-sheet against the other accused contains statement of three independent eyewitnesses. Out of the them two eyewitnesses have not named the Applicant. Third eyewitness has ascribed the role of assault by kicks and fist-blows.

Therefore Applicant's role is very doubtful. He is falsely implicated. The informant has deliberately implicated all the relatives of the main accused. He submitted that in this case custodial interrogation of the Applicant is not necessary.

5. Learned APP opposed this application by relying on the FIR, statement of the eyewitnesses as well as the injury certificate.
6. I have considered these submissions. The injured informant had suffered serious injuries. He had suffered as many as seven injuries as mentioned in the certificate issued by Alliance Hospital, Nalasopara. He had suffered injuries on the upper frontoparietal region occipital region lower limb. All these injuries needed suturing. There was fracture coupled with dislocation of hand and fracture of proximal ulna. All these injuries are not only more in number, but also they are serious and are on vital parts. His hand and leg were fractured. Thus, it is without doubt that the informant was brutally assaulted. He

has given his statement on 20/09/2021 and had named the present Applicant as one of the assailants.

7. The independent eyewitness Sushma Vanga has also named the Applicant and have given a specific role to the Applicant of assaulting the injured with kicks and fist blows. Section 149 of IPC is invoked. Therefore though other two eyewitness have not named the Applicant, there is sufficient material against the Applicant. The assault is brutal. Therefore no case for anticipatory bail is made out. The application is rejected.

(SARANG V. KOTWAL, J.)