

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

ANTICIPATORY BAIL APPLICATION NO.1202 OF 2022

Udaykumar Ramesh Patil

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Mr. Sachin B. Chandan for the Applicant.

Mr. N.B. Patil, APP for Respondent-State.

Mr. Anil Jadhav, PSI, Khadakpada Police Station, is present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 4th MAY, 2022.

P.C.:-

1. This is an application under Section 438 of Cr.PC. for pre-arrest bail in C.R. No.41 of 2022 registered with Khadakpada police station, Thane, for offences punishable under Sections 323, 337, 341, 504 and 506 r/w. 34 of the IPC. It is stated that subsequently offence under Section 326 of the IPC has been added.

2. The aforesaid crime was registered pursuant to the FIR lodged by Mr. Sunil Rajaram Patil. A perusal of the FIR reveals that the Applicant is the cousin of the Complainant. There is property dispute between both the parties and on 30/01/2022 at about 12.30 p.m. there was some altercation between the parties, which resulted in a fight. The

Complainant has alleged that the Applicant and Krish Patil and one unknown person assaulted him with kicks and blows, he fell down while trying to run away and sustained injuries on his right hand and leg. It is alleged that the Applicant and Krish Patil pelted stones at him, as a result of which he sustained injury on his nose. He was taken to Sonawane Hospital and thereafter he was referred to Bai Rukminibai Hospital, Kalyan. The medical certificate issued by Bai Rukminibai Hospital reveals that the Complainant had sustained abrasion on nasal internal tissue and abrasion on right elbow region. Both injuries were stated to be simple in nature. Subsequent injury certificate issued by the private hospital however shows that fracture of nasal bone, fracture of right and left incision teeth and 2nd molar tooth. Learned APP states that there are no supporting documents in the form of 'X' ray or otherwise to indicate that the Complainant had sustained grievous injury in the form of dislocation or fracture of teeth. The weapon of assault allegedly used by the Applicant and others was a stone. Considering the size, prima facie, it cannot be considered as a dangerous weapon. Considering the above facts and circumstances, in my considered view, prima facie, essential ingredients of Section 326 of the IPC are not made out.

3. The material on record reveals that the Applicant herein had

filed FIR against the Complainant and others on 30/01/2022. The FIR lodged by the Applicant was prior in point of time. The FIR lodged by the Applicant also reveals that the Complainant and others assaulted him with iron pipe, kicks and blows, etc. and inflicted injury.

4. Considering the above facts and circumstances, in my considered view the applicant is entitled for pre-arrest bail. Hence, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in C.R. No.41 of 2022 registered with Khadakpada police station, Thane, he shall be released on bail on executing PR bonds in the sum of Rs.25,000/- with one or two sureties to the like amount;
- (ii) The Applicant shall report to the Investigating Officer for on 09/05/2022 and 10/05/2022 between 11.00 a.m. to 2.00 p.m.;
- (iii) The Applicant shall not interfere with the Complainant or any of witnesses and shall not tamper with the evidence in any manner;
- (iv) The Applicant shall keep the Investigating Officer

informed of his current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

5. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)