

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

ANTICIPATORY BAIL APPLICATION NO.2870 OF 2021

Amin Rizwan Sayyed Applicant

versus

State of Maharashtra Respondent

.....

- Mr.Vivek Shukla i/b. Anjali Awasthi, Advocate for Applicant.
- Smt. A. A. Takalkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 02nd FEBRUARY, 2022
(through video conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.165/2021, dated 02/05/2021, registered with B.K.C. Police Station, Mumbai, under sections 326, 323, 504 r/w 34 of the Indian Penal Code.

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2. Heard Mr.Vivek Shukla, learned counsel for the Applicant and Smt. A. A. Takalkar, learned APP for the State.

3. The FIR is lodged by one Salman Qureshi. He has stated that on 02/05/2021 at about 02.00 a.m. there was some quarrel between the Applicant and the informant's cousin Shahnawaz when they were playing cricket. At that time others had intervened. At about 04.15 a.m. again quarrel started between the Applicant and Shahnawaz. Again both of them were separated. According to the first informant at about 04.30 a.m. the Applicant, Rehan and Adnan came towards the informant and his cousin. They started abusing and beating Shahnawaz. The informant's brother tried to intervene he was also assaulted. It is alleged that then Amin removed a sharp weapon and gave blow on Shahnawaz's head. Rehan picked up wooden bamboo and gave blows on Shahnawaz's hand and back. Similarly Faizan was also assaulted. After that the injured took treatment in the hospital and then this FIR is lodged.

4. Learned counsel for the Applicant submitted that the story in the FIR is not correct. In fact Rehan has lodged the FIR vide C.R.No.164/2021 at the BKC police station u/s 326 and

other sections of IPC. He submitted that in fact in that incident the Applicant was assaulted on his neck with a sharp weapon causing a grievous injury and therefore it is very clear that the narration in the FIR is not correct.

5. Learned APP produced medical papers in both of these offences.

6. I have considered these submissions. As far as allegations against the present Applicant are concerned, he is supposed to have given a blow with a sharp weapon on Shahnawaz. The injury certificate of Shahnawaz discloses that he has suffered 3 cm long wound on left parietal region, which was sutured. This injury is specifically described as simple injury. There are three other simple injuries caused to Shahnawaz on his left arm and back. All these injuries are simple. As against that, the Applicant has suffered grievous injury on left side of neck caused by sharp weapon. The medical opinion of the doctor mentions that the dimension of the injury was big and it

was present over vital structure of the neck. It was observed that it was dangerous and should be considered as grievous in nature.

7. Thus, it is clear that the Applicant himself has suffered more serious injuries as against the injuries suffered by Shahnawaz. The FIR against the present Applicant does not disclose this vital fact. Therefore the story against the Applicant does not appear to be true to depiction of facts. In this view of the matter, custodial interrogation of the Applicant is not required. He can be protected by an order of anticipatory bail.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.165/2021, dated 02/05/2021, registered with B.K.C. Police Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees

Thirty Thousand Only) with one or two sureties in the like amount.

- (ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)