



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3094 OF 2023**

Akshay Sunil Patil
versus
State of Maharashtra

... Applicant
... Respondent

Ms. Suvarna Avhad with Mr. Ganesh Nagargoje i/by Mr. Prakash J. Salsingikar, for Applicant.

Mr. S.H.Yadav, APP for State.

**CORAM: N.J.JAMADAR, J.
DATE : 1 NOVEMBER 2023**

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.736 of 2022 registered with Pandharpur City Police Station for the offences punishable under Sections 324, 323, 504, 506 read with 34 of the Indian Penal Code.
3. The first informant and his nephews are residing separately in their ancestral house. There have been disputes between the first informant and his nephew over the ancestral property. On 25 October 2022, while the first informant's son Sumit was returning home, the applicant and co-accused raked up quarrel with Sumit. They started assaulting him. When the first informant went to his rescue, the applicant allegedly gave a blow by means of an iron rod on the forearm of the first informant. Initially, FIR was lodged for the offences punishable under Sections 324, 323, 504, 506 of IPC. Later on, as it transpired that the first informant had sustained a

fracture, offence punishable under Section 326 of IPC came to be added.

4. Learned Counsel for the Applicant submitted that after about 12 days of the occurrence, offence punishable under Section 326 of IPC came to be added. Inviting the attention of the Court to the injury certificate (Exhibit B), it was submitted that though the incident had occurred on 25 October 2022 and the first informant was examined on 26 October 2022, the age of injury was stated to be within two hours of examination. Therefore, according to the learned Counsel for the Applicant, the injury certificate does not lend credence.

5. The learned APP resisted the application on the ground that there are specific allegations of assault by means of an iron rod.

6. From the perusal of the allegations in the FIR, it becomes evident that the genesis of the offences is in the dispute between the first informant and his nephew over the succession to ancestral property. It appears that on the morning of the day of occurrence also, there was a scuffle. The role attributed to the applicant is that of assaulting the first informant by an iron rod. I have perused the injury certificate. It indicates that the first informant sustained contusion and, eventually, it transpired that there was a fracture. In the circumstances of the case, the question as to whether offence punishable under Section 326 of IPC is made out would be a matter for trial.

7. Having regard to the relationship between the parties and the time lag, at this length of time, the custodial interrogation of the applicant does not seem to be

warranted for an effective investigation. I am, therefore, inclined to exercise the discretion in favour of the Applicant.

8. Hence, the following order :

ORDER

(i) In the event of the arrest of the Applicant – Akshay Sunil Patil in connection with C.R.No.736 of 2022 registered with Pandharpur City Police Station, the Applicant be released on bail on furnishing a PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

(ii) The Applicant shall co-operate with the investigation and report to Pandharpur City Police Station on 8th and 9th November 2023 in between 10.00 a.m. to 1.00 p.m., and, thereafter, as and when directed by the Investigating Officer.

(iii) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses and the persons acquainted with the facts of the case.

(iv) The Applicant shall regularly attend the proceedings before the jurisdictional Court.

(v) The Application stands disposed.

(vi) It is clarified that these prima facie observations are confined to determine the entitlement to pre-arrest bail only.

(N.J.JAMADAR, J.)