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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1394 OF 2023**

Nitin Dival Hinge

...Applicant

vs.

State of Maharashtra

...Respondent

Mr. Nilesh S. Pandit i/b Anjesh Nilesh Advocates LLP for the Applicant.

Mr. S. R. Agarkar APP for the Respondent-State.

Mr. Irfan Salim Mulani from Kashimira police station present.

CORAM : S. M. MODAK, J.

DATED : 5TH JUNE 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP for the Respondent-State.
2. The Investigation Officer is present.
3. The incident took place on 18th March 2023, at about 5.30 pm within limits of Kashimira police station. The first informant-Gopi Saroj was assaulted by present Applicant and Nilesh Shinde. He was beaten with help of iron rod whereas co-accused has beaten him with fists and blows. Whereas FIR is lodged on 19th March 2023, at about 14.56 hours.

4. Initially, FIR was registered under section 324 read with 34 of IPC. Later on, on the basis of certificate issued by the Greater Municipal Hospital, Kandivali, the police have added section 326 of IPC. I have perused copy of that certificate. There are two injuries, one fracture to little right finger and there is also lacerated wound. CT scan was advised and it was also performed.
5. Co-accused is released on bail. The incident took place when Raja Hinge, grand-father of the Applicant has entrusted job of erecting hut to the first informant. Being annoyed, the Applicant and co-accused have beaten the first informant, as mentioned above. The Applicant contends that he is having some dispute with his grand-father on account of land. He is ready to cooperate with the police.
6. Learned APP submitted that there are also earlier non cognizable complaints filed against present Applicant on 20th May 2023, and on 18th April 2023.
7. Section 326 of IPC was added on 23rd March 2023. Yet the iron rod is not seized. It is true that if injury is fracture, it falls within definition of "grievous hurt" mentioned in section 320 of IPC and as such section 326 of IPC gets attracted.
8. There is no fracture on vital part of body but it is on little

finger only but it is also fact that even though incident took place on 18th March 2023, at about 4.00 pm but FIR is lodged on next day i.e. 19th March 2023. In certain cases, the delay is also important. I think the Applicant has made out a case for grant of anticipatory bail. He can be put to conditions. In view of that the following order is passed :

ORDER

- (a) In the event of arrest in connection with C.R. No.210 of 2023 registered with Kashmirira police station, for the offences punishable under sections 324, 326, 504 of IPC, the Applicant be released on bail on furnishing personal bond and surety bond of Rs.25,000/-.
- (b) The Applicant shall not threaten the prosecution witnesses or to allure them in any manner.
- (c) The Applicant shall give attendance to the Kashmirira police station on every Friday from 10 am to 12 noon until filing of the charge sheet.
- (d) Needless to say, violating of any conditions above will make the Applicant liable for cancellation of anticipatory bail, after

notice to the Applicant.

9. Application is disposed of accordingly.
10. These are my prima facie observations. Let the trial Court need not be influenced by them.
11. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]