

Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 3003 OF 2023

Rafik Ahamad and Others ...Applicants

Vs.

The State of Maharashtra ...Respondent

Mr. Anish Dubey, for Applicants.

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

Mr. A. S. Jadhav, PSI, Ghatkopar Police station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 31st OCTOBER, 2023

PC:-

1) Heard the learned counsel for the applicants and the learned APP for the State.

2) This application is preferred for pre-arrest bail in connection with C.R. No. 841 of 2023, registered with Ghatkopar Police Station, for the offences punishable under Sections 143, 144, 147, 149, 326, 324 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3) The first informant and co-accused Istekar, Naimullah, and Istekar Naemullah are natives of the State of Uttar Pradesh. There is a dispute between the first informant and the above-named co-accused over a property at their native place. On 10th October, 2023, the applicant and the co-accused allegedly formed an unlawful assembly and in prosecution of the common object of the said assembly assaulted the first informant by means of fist and kick blows and an iron rod. Initially co-accused Istekar, and Istekar Naemullah unleashed blows by means of an iron rod on the leg and waist of the first informant. Later on the applicant and another person took the same iron rod from those assailants and assaulted the first informant on his leg.

4) The learned Counsel for the applicant submitted that when the applicant had gone to settle the quarrel between the parties, the applicant came to be falsely roped in.

5) The learned APP submitted that the CT scan had revealed a fracture of the ribs.

6) The allegations in the FIR indicate that on account of a dispute over property, the first informant and the accused party are at loggerheads. The role attributed to the applicant is that of

assault by means of iron rod on the leg of the first informant. The applicant allegedly took away an iron rod from the principal assailant and thereafter assaulted the first informant. However, the role of assault by means of iron rod on the ribs of the first informant is attributed to Istekar Naemullah.

7) I am, therefore, inclined to exercise discretion in favour of the applicant.

8) Hence, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 841 of 2023, registered with Ghatkopar Police Station, for the offences punishable under Sections 143, 144, 147, 149, 326, 324 and 506 read with Section 34 of Indian Penal Code, 1860, the applicant be released on bail on executing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

II) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

III) The applicant shall co-operate with the investigation and attend Ghatkopar police station on 7th, 8th and 9th November, 2023 in between 10.00 am to 1.00 pm and as and when directed by the Investigating Officer.

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

V) The application stands disposed.

[N. J. JAMADAR, J.]