

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

ANTICIPATORY BAIL APPLICATION NO. 3273 OF 2023

Rampratap Sabajeet Singh	..Applicant.
V/s.	
The State of Maharashtra	..Respondent

Mr. Girish Paryani i/b A & G Legal Associates LLP for the Applicant
Mr. Y.Y. Dabake, APP for the Respondent/State.
API Abhijit Patil attached to Manpada police station present.

CORAM : M.M.SATHAYE, J.

**DATE : 17th NOVEMBER 2023
(VACATION COURT)**

**SNEHA
NITIN
CHAVAN**

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1. This is an application for anticipatory bail filed by the Applicant/Accused No.3 in connection with C.R. No. 840 of 2023 registered with Manpada Police Station, Dombivali for offences punishable under Section 326, 324, 323, 504 read with Section 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicant and learned APP for the Respondent/State.

3. Perused the FIR dated 19.10.2023 filed by the informant Vijay Hiramadhi Choube and the order dated 04.11.2023 passed by the Additional Sessions Judge, Kalyan rejecting the Applicant's Anticipatory Bail Application No. 1902 of 2023.

4. The case of the prosecution in short, is as follows. The informant and accused No.1 Sanju Singh are resident of Radhakrishna Apartment, Kalyan (E). On the date of the incident, due to interruption of water supply, the informant went on terrace to find out the reason and he found that the water supply was closed by someone and therefore, he started the same. At that time, accused No.1 Sanju Singh called the present Applicant who is builder of the said Apartment on phone. When the Applicant came on the terrace, the informant told him that accused Sanju Singh stopped the water supply and this led to a quarrel resulting in scuffle between family members of informant and accused Sanju Singh. When son of the informant tried to interfere, accused Sanju Singh assaulted him on head with a hammer and when informant tried to help his son, present Applicant held his hands and then Sanju Singh assaulted on the head of the informant also with the same hammer. Accused Sanju Singh has also thereafter assaulted the wife of the informant on her hand.

5. The learned counsel for the Applicant has submitted that perusal of the FIR shows that the Applicant himself has not used any deadly weapon or hammer as is the case against the main accused Sanju Singh. He submitted that he is a builder of the building, on the terrace of which the incident happened. He submitted that he has no motive to either support the informant or main accused, who are both resident of the said building. He submitted that he is willing to co-operate with the investigation and he is ready to abide by such terms and conditions as the Court may impose.

6. On the other hand, the learned APP opposed the grant of any relief in favour of the Applicant. He submitted that specific role attributed to the Applicant is that he held hands of the informant and therefore, the main accused Sanju Singh could hit the informant with a hammer. He submitted that section 34 of the IPC is squarely applicable in such cases. Learned APP has also relied upon the statement of one of the eye witnesses - Mr. Raghavendra Sanjay Singh who has clearly stated that the present Applicant came in between when the scuffle was going on, and he held the hands of the informant and therefore, the main accused Sanju Singh could hit the informant as well as this eye-witness by the hammer. The learned APP has also relied upon the medical certificates of the informant as well as his son who has sustained grievous injuries.

7. On a specific query of the Court as to how the Applicant landed on the terrace of the said building, when he himself is not the resident there, learned counsel for the Applicant submitted that he heard the quarrel and went there. As against this, as per the FIR, accused Sanju Singh called the Applicant on phone and called him there. This aspect requires investigation.

8. Perusal of the order of the Additional Sessions Judge shows the role attributed to the Applicant and nature of severe injuries sustained by the informant's son is considered. Finding that that the skull of the informant's son was broken up due to assault and almost 50 stitches were required to be applied, learned Sessions Judge has held that this is the case of brutal assault in which the Applicant appears to have aided by holding hands of the informant while he was trying to help his son.

9. Considering the aforesaid facts and circumstances of the case, I do not find any fault with the Order dated 04.11.2023 and in my opinion this is not a fit case for grant of pre-arrest bail.

10. Application is therefore, rejected.

(M.M.SATHAYE, J.)