

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3350 OF 2023

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Suraj Kisan Jarad

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Rupesh Zode, a/w Priyanka Gupta, for the Applicant.

Mr. S. H. Yadav, APP for the State/Respondent.

ASI Gaikwad A. A., Baramati Police Station, present.

CORAM: N. J. JAMADAR, J.

DATED: 1st DECEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR No.785 of 2023, registered with Baramati Police Station, Pune Rural, for the offences punishable under Sections 323, 324, 326, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").
3. The first informant had a dispute with his nephew Suraj Jarad over a common wall. The first informant instituted a suit in the Civil Court at Baramati. As the applicant – accused No.1 Suraj was served with a notice of the said proceeding on 12th October, 2023, the applicant was

allegedly enraged. On 13th October, 2023, the applicant allegedly raked up quarrel, abused and assaulted the first informant. As the first informant fell down, his mother Vimal came to his rescue. Thereupon the applicant took up a brick lying thereat and gave a blow on the right hand of the first informant's mother. The applicant's father Kisan Jarad and mother Anita Jarad joined the applicant in abusing and assaulting the first informant and his parents.

4. As the medical examination reveals that the first informant's mother Vimal had fractured her right shoulder, offence punishable under section 326 came to be added. The learned Additional Sessions Judge was persuaded to exercise the discretion in favour of the applicant's father and mother. However, the learned Sessions Judge declined to exercise the discretion in favour of the applicant.

5. Mr. Zade, the learned Counsel for the applicant, submitted that on account of dispute over the common wall, the first informant and the applicant have been at loggerheads. On the date of occurrence, in fact, the first informant and the members of the informant party had assaulted the first informant and his father Kisan. The applicant had lodged a report vide CR No.786 of 2023 for the

offences punishable under Sections 323, 324, 504 and 506 read with Section 34 of the Penal Code.

6. The learned APP resisted the prayer for pre-arrest bail on the ground that Vimal, the mother of the first informant, had sustained a grievous injury.

7. I have perused the material on record. *Prima facie* it appears that on account of the dispute over a common wall there have been quarrels between two brothers. The genesis of the offences appears to be in the civil dispute. It is true the injury certificate reveals that Vimal had sustained a fracture on the right shoulder. However, *prima facie*, it does not appear that there was premeditation. Initially, the applicant was not armed with any weapon. FIR indicates that the applicant in a heat of passion took up the brick lying at the spot and allegedly gave a blow by means of the said brick. It further appears that the brick came to be recovered during the course of the panchnama of the scene of occurrence. In the circumstances, whether an offence punishable under Section 326 of the Penal Code can be said to have been made out, would be a matter for adjudication at the trial. Since the weapon of offence has allegedly been recovered from the scene of occurrence itself, further

custodial interrogation of the applicant does not seem to be warranted. The applicant also appears to have roots in the society. Possibility of fleeing away from justice seems to be remote. I am thus inclined to exercise the discretion in favour of the applicant.

8. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.785 of 2023, registered with Baramati Police Station, Pune Rural, 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 cooperate with the investigation and attend Baramati Police Station, on 8th and 9th December, 2023 in between 10.00 am. to 1.00 pm.
- (iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.
- (iv) The applicant shall regularly attend the proceedings before the jurisdictional court.

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

Application stands disposed.

[N. J. JAMADAR, J.]