

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3368 OF 2023

Kishor Lacchiram Bhilwara and Anr. ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr. R.R. Mishra a/w. Mr. Ranjeet Singh and D. Yadav, for the Applicant
Mr. S.H. Yadav, APP, for the Respondent/State.
Mr. Shashank Parab, PSI, Nirmal Nagar police station.

CORAM : N. J. JAMADAR, J.
DATE : DECEMBER 4, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. This application is preferred seeking pre-arrest bail in connection with C.R. No.663 of 2023 registered at Nirmal Nagar police station for the offences punishable under sections 323, 326, 341, 506(2), 504 read with 34 of Indian penal Code, 1860.

3. The family of the first informant had been at loggerheads with Kishor Bhilwara, his uncle. On 17th November, 2023 the first informant learnt that his uncle and cousins had assaulted his father and brother Hitesh. The first informant confronted Kishor

Bhilwara, as to why his father was assaulted. Thereupon, the applicants Kishor, and Akshay and co-accused Nitesh, allegedly abused and assaulted the first informant by means of fist and kick blows. Co-accused Nitesh was armed with an iron rod. Nitesh assaulted the first informant on the head. As the first informant sat down, due to the head injury, applicant No. 2 Akshay allegedly threatened to eliminate him. Hence, the report.

4. The learned counsel for the applicant submitted that on account of previous enmity, the applicants have been falsely roped in. In fact, applicant No. 2 Akshay had sustained injuries in the very same occurrence. Attention of the Court was invited to the injury certificate (page 19) which indicates that the applicant No. 2 Akshay had sustained injuries. It was further submitted that the role of assault by means of iron rod has been attributed to co-accused Nitesh. Therefore, the applicants deserve exercise of discretion.

5. The learned APP invited attention of the Court to the supplementary statement of the first informant, in which it was alleged that the applicant was armed with iron rod and Nitesh had a paver block.

6. From the allegations in the report, it becomes, prima facie clear that the relations between the first informant and the applicants have been strained over familial disputes. On the day of occurrence, there was a prior altercation between the parties. It appears that the applicant No. 2 Akshay had also sustained injury in the said occurrence. In any event, even if the supplementary statement is taken at par, yet, the allegations of assault on head by means of hard object are attributable to the co-accused Nitesh. From the perusal of the injury certificate, it appears that the first informant has sustained a blunt trauma on the head and leg. In this backdrop, whether an offence punishable under section 326 of the Penal Code can be said to have been made out, would be a matter for trial. I am, therefore, persuaded to exercise the discretion in favour of the applicants.

7. In the event of arrest in C.R. No. 663 of 2023 registered with Nirmal Nagar police station, the applicants be released on bail on furnishing a P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount, each.

8. The applicants shall cooperate with the investigation and attend Nirmal Nagar police station, on 11th and 12th December, 2023

in between 10 am to 1 pm and, thereafter, as and when directed.

9. The applicants shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

10. The applicants shall regularly attend the proceedings before the jurisdictional Court.

11. It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Application disposed.

(N. J. JAMADAR, J.)