

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

ANTICIPATORY BAIL APPLICATION NO.6 OF 2024

Baban Kanha Jadhav

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr. Aashish Satpute, Advocate for Applicant.
- Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 05th JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.1028/2023 dated 19/10/2023, registered with Shikrapur Police Station, Pune City, under sections 324, 504, 506 of the Indian Penal Code. Subsequently, section 326 of the Indian Penal Code was applied.

2. Heard Mr. Aashish Satpute, learned counsel for the Applicant and Ms. Pallavi N. Dabholkar, learned APP for the State.

3. The FIR is lodged by the injured Shivaji Bhaurao Kamble. He has stated that on 15/10/2023 at about 04.00 p.m. when he was sitting outside his house, the Applicant's goats started eating vegetables and bushes in front of his house. The informant told the Applicant to take care of his goats. There was a quarrel. The Applicant brought an axe and gave blows of axe on the informant's left palm and cheek. The informant went to Shikrapur police station. He was given memo for medical examination. He was told that there was fracture to his hand and therefore he was sent to Sassoon hospital, Pune. After taking treatment, the informant came back and lodged the FIR on 19/10/2023.
4. Learned counsel for the Applicant submitted that the FIR was lodged after a delay of 4 days. It shows that the Applicant was implicated as an afterthought. Initially the FIR was lodged mainly u/s 324 of the IPC. He submitted that the fracture was very minor and the Applicant never intended to cause any grievous injury.

5. Learned APP opposed these submissions. According to her, the delay in this matter is not important because the informant was taking treatment for four days. Since there is a fracture, the injury falls within the definition of grievous hurt as defined u/s 320 of the IPC. She therefore submitted that considering the manner of assault, anticipatory bail may not be granted to the Applicant.

6. I have considered these submissions. Since the informant himself had described the incident, at this stage, there is no reason to doubt that some quarrel had taken place between the Applicant and the informant. The delay in this case really does not matter. The injury certificate shows that the informant had suffered three injuries. Two injuries were in the nature of CLW on left hand 4th finger and on the cheek respectively. The 3rd injury was a contusion. Except the injury, which had caused the fracture on the palm, other two injuries were described as simple injuries. As far as the fracture is concerned, the x-ray report shows that the fracture was

involving base of 5th metacarpal on the left palm. The impression was recorded as ‘minimally displaced fracture involving base of 5th metacarpal (left)’.

7. The fracture will be covered by the 7th category mentioned u/s 320 of the IPC. However, at the same time, section 322 of the IPC also requires to be considered, which reads thus:

“322 – Voluntarily causing grievous hurt – Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said ‘voluntarily to cause grievous hurt’ ”.

8. In the background of the case, it is necessary to see the weapon involved in this case. The Applicant was allegedly carrying an axe and yet two simple injuries were caused. The third injury, though it was a fracture; it was not caused with a heavy blow of the sharp side of the axe. Therefore, at this stage, there is reasonable scope to believe that the Applicant did not

intend to cause grievous hurt, and did not have the requisite knowledge. The incident had occurred on a spur of the moment and the Applicant did not act in a cruel manner or had not caused serious injury on any vital part. The act may not attract section 326 as per section 322 of IPC. Therefore, considering the minor nature of the incident, the Applicant can be protected by an anticipatory bail order. His custodial interrogation is not necessary.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.1028/2023 dated 19/10/2023, registered with Shikrapur Police Station, Pune City, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)