

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

ANTICIPATORY BAIL APPLICATION NO. 37 OF 2024

Ravindra Sopan Domale

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Piyush Toshnival i/b. Ashish Pawar for Applicant.

Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 9 JANUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.863 of 2023, registered at Shirur Police Station, Pune rural, on 20.09.2023, under sections 307, 324, 452, 504 and 506 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Piyush Toshnival, learned counsel for the applicant and Ms. Mahalakshmi Ganapathy, learned APP for the State.

3. The F.I.R. is lodged by one Hanumant Domale. He has stated that, his elder brother Sopan was residing near his house

with his family. The present applicant is the informant's brother Sopan's son. It is mentioned in the F.I.R. that the applicant was addicted to liquor. There was dispute between the applicant and his wife. She was residing with her parents at her parental house. The applicant was having doubt that the informant's son and the applicant's wife were having illicit relations. Since then they were on inimical terms.

4. On 18.09.2023, at about 11.30p.m. the applicant went to the house of the informant and started abusing him. The applicant entered their house forcibly. He was carrying a sickle. He was followed by his parents. The applicant assaulted the informant on his head with the sickle. The informant's brother Sopan also assaulted the informant. When the informant's wife intervened to stop him, the applicant gave a blow with sickle on her head. After that, they went away. The informant called his brother-in-law. They were taken to the Primary Health Center and then to Sassoon Hospital, Pune. On this basis, the F.I.R. is lodged.

5. Learned counsel for the Applicant submitted that the

description of the incident in the F.I.R. is not true. In fact, the applicant's mother has lodged her own F.I.R. vide the C.R.No.864 of 2023 at the same police station under sections 307, 324 etc. of the I.P.C. In that F.I.R., she had narrated the correct facts. She has stated that, on 18.09.2023, at about 10.00p.m. she herself, present applicant and her husband went to the house of Hanumant and questioned them about Hanumant's son's relations with the applicant's wife. It is her case that, Hanumant then assaulted herself and her husband i.e. the applicant's father with the sickle causing grievous injuries. On this basis the F.I.R. is lodged.

6. Learned counsel for the applicant herein submitted that the applicant's father had suffered grievous injuries and yet the accused in that case Hanumant Domale (informant in the present case) was granted anticipatory bail by this Court (Coram: N. J. Jamadar, J.) vide the order dated 30.10.2023 passed in A.B.A.No.3021 of 2023. He submitted that, though, the applicant's father himself had suffered grievous injuries, the informant was granted benefit of anticipatory bail and, therefore, it would not be proper to deny the same relief to the applicant in this case.

7. Learned APP opposed these submissions and produced the injury certificate, as well as, the statement of the injured Jaibai before the court.

8. I have considered these submissions. Though, there are cross cases, the consistent versions from both these F.I.Rs. are that the applicant and his parents had gone to the house of the informant in the present case Hanumant. After that the incident had taken place. The first informant has described the incident in detail. The statement of Jaibai who is the injured in this case has also corroborated the version of the first informant Hanumant. Both of them have categorically stated that the present applicant had assaulted Jaibai on her head with the sickle. Their version is supported by the medical certificate. Though, Hanumant himself had suffered three simple injuries, Jaibai had suffered Diastatic fracture (minimally displaced) fracture on the head. There was another injury in the nature of abrasion. The head injury was described as a grievous injury. Thus, the informant and his wife's version is supported by the medical certificate. The applicant could not have had any apprehension at the hands of injured Jaibai and,

therefore, it cannot be said that the applicant had acted in the exercise of his right of private defence. It was a deliberate act committed by him by assaulting the injured Jaibai on her head with sickle. Therefore, considering the nature of assault, no case for grant of anticipatory bail order is made out.

9. The Application is accordingly dismissed.

(SARANG V. KOTWAL, J.)