

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

ANTICIPATORY BAIL APPLICATION NO.127 OF 2024

Shahid Habibul Hasan Shaikh	 Applicant
Versus	
The State of Maharashtra	 Respondent

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**WITH
ANTICIPATORY BAIL APPLICATION NO.128 OF 2024**

Santosh Manohar Ingulkar	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Satyavrat Joshi, Advocate i/b. Yash Fadtare, for the Applicants in both ABAs.

Ms. Sharmila S. Kaushik, APP for the Respondent-State in ABA/127/2024.

Ms. Pallavi N. Dabholkar, APP for the Respondent-State in ABA/128/2024.

CORAM : SARANG V. KOTWAL, J.

DATE : 17th JANUARY, 2024

P.C. :

1. Both these Applications are decided by this common order because they arise out of the same FIR.

2. The Applicants are seeking anticipatory bail in connection with C.R.No.354/2023 registered at Swargate Police Station, Pune City on 29.12.2023 under sections 323, 324, 326, 504, and 506 read with 34 of IPC.

3. The FIR is lodged by one Ashfaq Kazi. He has stated that on 27.12.2023 at about 4.00 p.m. their Managing Committee members of the housing society had attended the office of the Sub-Registrar. The informant and others had also attended the proceedings. At that time, the Applicant Shahid, who was the Chairman of the Society abused him and started fighting with him. The Applicant Santosh removed a silver-coloured pipe from his bag and tried to assault the informant on his head. The informant tried to ward it off with his left hand and in the process got hit on his left hand. The other accused Sharaf Ali tried to assault him but the informant ran away. He went to the police station and then to the Sassoon Hospital. He was told that there was a fracture. On this basis, the FIR is lodged.

4. Learned counsel for the Applicants submitted that the Applicant Shahid has lodged his own FIR vide C.R. No.351/2023 at the same police station under Sections 324, 323, 504, 506 read with 34 of IPC. He has described the incident correctly. In the same incident, the informant in the present case, namely, Ashfaq assaulted him with a stone near his left ear. He went to Sassoon Hospital to get treatment. There stitches were put on his wound and, thereafter he lodged his FIR. Learned counsel submitted that the Applicant had suffered a serious injury. The incident was a free fight between the two groups from the same society. Considering the role attributed to both the Applicants, their custodial interrogation is not necessary.

5. Learned APP produced the medical certificate of the informant Ashfaq which shows that there was undisplaced fracture on the neck of fifth metacarpal of left hand.

6. I have considered these submissions. The informant Ashfaq has suffered a fracture but it was a minor fracture of left finger. It appears to be a hair-line fracture. As

compared to that the Applicant Shahid has suffered a head injury which required suturing. There is no reference to the Applicant Shahid's injury in the FIR lodged by the informant Ashfaq. Therefore, there appears to be clear suppression of facts. In these circumstances, the custodial interrogation of the present Applicants would not be necessary. They can be protected by way of an order under Section 438 of Cr.PC.

7. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.354/2023 registered at Swargate Police Station, Pune City, the Applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (ii) Both the Applications are disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
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