

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

ANTICIPATORY BAIL APPLICATION NO. 167 OF 2024

Shadab S/o. Khurshid @ Shadab Kassar ..Applicant
Versus
The State of Maharashtra ..Respondent

Mr. Akram A. Shaikh a/w. Milan Desai for Applicant.
Smt. M. H. Mhatre, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 22 JANUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.1651 of 2023 registered at Malwani Police Station, Mumbai, on 30.12.2023 under sections 326, 323, 504 r/w. 34 of the Indian Penal Code.
2. Heard Mr. Akram Shaikh, learned counsel for the applicant and Smt. Mhatre, learned APP for the State.
3. The F.I.R. is lodged by one Asif Ansari. He has stated that. He was working in a welding shop with his brother. The main accused Bholu was staying adjacent to the informant's room. On 30.12.2023, in the midnight, Bholu had quarrel with one Zulphikar staying on the ground floor. The informant and his

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brother Abdul Kadir went to intervene. Bholu abused the informant. Bholu's relative Jishan, Muzamil and the present applicant who was Bholu's friend came there. They started beating the informant and his brother Abdul with hands. In the meantime, Bholu brought an iron rod and gave blows on the informant and his brother. The informant suffered fracture on his right little finger and Abdul suffered injuries on his back. After that, everybody ran away. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the role attributed to the applicant is minor. He has not used any weapon. He is not responsible for the injuries caused to the informant. His custodial interrogation is not necessary.

5. Learned APP produced injury certificate of the informant which shows that he had suffered fracture of right hand's little finger and, therefore, the injury was grievous. There was another injury on right elbow which is described as simple injury. Learned APP, on instructions, submitted that, though, the medical certificate of Abdul was not available, he had suffered only simple injury.

6. I have considered these submissions. The incident had occurred on the spur of moment. The applicant and other relatives of Bholu had beaten both the injured only with hands. They had not used any weapon. They had not caused any grievous injury. The main accused Bholu brought an iron rod and gave blows. Therefore, at this stage, it cannot be observed that the applicant shared common intention with Bholu. Considering the minor role attributed to the present applicant, he can be protected U/s.438 of the Cr.p.c.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.1651 of 2023 registered at Malwani Police Station, Mumbai, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii) The Application is disposed of.

(SARANG V. KOTWAL, J.)