

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

ANTICIPATORY BAIL APPLICATION NO.193 OF 2024

Avinash Laxman Agivale

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr. D. S. Pagare, Advocate for Applicant.
- Smt. M. H. Mhatre, APP for the State/Respondent.
- Mr. P. N. More i/b. N. C. Kamble, Advocate for first informant/
complainant.

CORAM : SARANG V. KOTWAL, J.
DATE : 23rd JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.511/2023, dated 20/08/2023, registered with Kalyan Taluka Police Station, Thane Rural, under sections 326, 324, 323, 143, 147, 148, 149 of the Indian Penal Code and under section 4, 25 of the Arms Act. Now section 307 of the IPC is also applied.

2. Heard Mr. D. S. Pagare, learned counsel for the Applicant, Mr. P. N. More, learned counsel for the first informant and Smt. M. H. Mhatre, learned APP for the State.
3. The FIR is lodged by one Nitin Chaudhari. He has stated that he had given complaint against Suraj Tamane and Rohit Gaikwad in February 2023 with Kalyan Taluka Police Station. Therefore, they were angry with him. On 19/08/2023 at about 07.30 p.m., the informant was standing with his friend Shekhar Jadhav. Suddenly Suraj Tamane, Rohit Gaikwad, Hemant Parel, Rohit Parel, Sameer Parel and the present Applicant came near him. They abused him. Rohit Parel gave a blow with sword. The informant put up his hand, and therefore, the blow fell on his hand. The informant's mother tried to intervene. She was also assaulted on her hand with the sword. Suraj Tamane and Rohit Gaikwad used their sharp weapons, but assaulted with the blunt side. The others assaulted the informant with fists and kicks blows. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the main accused Suraj Tamane and Rohit Gaikwad are granted anticipatory bail by the Court of Sessions. The Applicant is not attributed any weapon or any specific role of assault on the informant. The injuries suffered by the informant and his mother are simple.
5. Learned APP and learned counsel for the first informant opposed these submissions. They submitted that though the description of the injury is simple, the injury certificate is not correct. Learned counsel for the informant produced photographs of the injuries suffered by the injured. They are taken on record and marked 'X-collectively' for identification. Learned APP also relied on the photographs which are produced along with investigation papers.
6. I have considered these submissions. The injury certificate mentions that the informant's mother Vandana has suffered one incised wound on left forearm of 10 x 0.5 x 0.5 cm.

The informant also suffered a similar injury on his left forearm. Though the injuries are described as simple injuries, the photographs show that they were quite serious. The injuries were of such a nature that they would cause the sufferer to be in severe bodily pain for 20 days and he would be unable to follow his ordinary pursuits. Though, the injuries are described as simple, this opinion does not appear to be correct. In any case, the offence u/s 307 is now added. The accused Rohit Parel had tried to assault the first informant on his head with the sword that would attract section 307 of the IPC.

7. Learned APP produced the Panchanama described in CCTV footage of the incident. In that footage, the Applicant was also seen wielding a weapon. He had come on the spot with the main assailant Rohit Parel with a weapon. Therefore, at this stage, there is sufficient material to show that the Applicant had shared common object with Rohit Parel who had given serious blows with sword on both the injured. The Applicant has two criminal antecedents at Kalyan Taluka police station i.e.

C.R.No.325/2018 and C.R.No.275/2019. The latter offence was u/s 307 of the IPC.

8. Considering all these aspects, the Applicant does not deserve protection u/s 438 of Cr.P.C. The application is rejected.

(SARANG V. KOTWAL, J.)