

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

ANTICIPATORY BAIL APPLICATION NO. 281 OF 2024

Kiran Ravindra Khavale

..Applicant

Versus

State of Maharashtra

..Respondent

Mr. Vijendra Kumar Rai a/w. Chandra Prakash Yadav a/w. Iram
Sayed a/w. Priti V. Rai for Applicant.

Smt. M. H. Mhatre, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 01 FEBRUARY 2024

PC. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.518 of 2023 registered at M.H.B. Colony Police Station, Mumbai, on 04.10.2023, under sections 323, 324, 326, 504 and 506 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Vijendra Rai, learned counsel for the applicant and Smt. Mhatre, learned APP for the State.

3. The F.I.R. is lodged by one Sachin Kamble. He has described about the previous enmity between the applicant and the informant. On 16.09.2023, at about 8.30p.m. there was some

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quarrel between the applicant and the informant because the applicant was shooting video on his mobile phone aiming at the informant. The quarrel escalated. It is alleged that the applicant picked up an iron rod lying there and gave a blow on the right forearm of the informant. The informant fell down and suffered injury on his shoulder. It is mentioned in the F.I.R. that the applicant himself walked away from the spot. He was shouting that the applicant himself was assaulted on his head. Thereafter the applicant's wife and mother came there and abused the informant. On this basis the F.I.R. is lodged.

4. Learned counsel for the applicant submitted that the applicant himself has lodged his F.I.R. vide C.R.No.488 of 2023 at the same police station on 17.09.2023 U/s.323, 504 and 506 r/w. 34 of the I.P.C. In that F.I.R., he has described the incident in which Sachin Kamble had assaulted the applicant on his head with some weapon. Learned counsel submitted that the applicant's F.I.R. is corroborated by the injury certificate and the photographs.

5. Learned APP submitted that the F.I.R. against the

applicant describes how the informant's shoulder was dislocated. The injury, therefore, is grievous. Section 326 of the I.P.C. is applied against the applicant, therefore, he may not be protected U/s.438 of the Cr.p.c.

6. I have considered these submissions. The applicant himself has suffered a serious head injury of the size 7cm x 2cm x 1cm., requiring 5 stitches. The photographs show that the applicant's head injury was quite serious. The informant Sachin Kamble has not uttered a word as to how the applicant had suffered the head injury. Therefore, his F.I.R. does not correctly describe the incident. Significantly, even the F.I.R. does not attribute dislocation of the shoulder directly to the act of the present applicant. It is mentioned that the applicant gave a blow on the forearm of the informant. There is no injury on the forearm. The informant fell down causing dislocation of his shoulder. Therefore, the applicant cannot be attributed any blow of any weapon causing dislocation of the shoulder. Considering all these aspects, the applicant 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.518 of 2023 registered at M.H.B. Colony 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.)