

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

CR. ANTICIPATORY BAIL APPLICATION NO. 283 OF 2024

1. Abdul Kalam Manihar	
2. Abdul Mobin Manihar	...Applicants
Versus	
State Of Maharashtra	...Respondent

Ms Tahera Qureshi i/b. Adv. Yusuf S. Mithi for the Applicants.
Smt. Mahalakshmi Ganapathy, APP for the Respondent-State
Mr. Pranot P. Pawar a/w. Adv. Santosh Saroj for Org. Complainant /
Intervener

CORAM : SARANG V. KOTWAL, J

DATED : 1st FEBRUARY, 2024

P.C.:

1. The Applicants are seeking anticipatory bail in connection with C. R. No. 825 of 2023 registered at Kandivali West Police Station, dated 15/11/2023 u/s. 326, 354-B, 323, 504, 506 r/w. 34 of the Indian Penal Code.
2. Heard Ms Qureshi, learned counsel for the Applicant, Mr. Pawar, learned Counsel for the intervener and Ms. Ganapathy, learned APP for the Respondent-State.
3. The FIR is lodged by one Anand Sharma. He stated that on 07/11/2023 at around 7.50 pm. when he was going towards Saikrupa building, he saw that one Rafique Shaikh was quarreling

with one Kasimali Manihar. The Applicant No. 1 is one of Kasimali's sons. The informant went to see what was going on. He saw that Rafique and Kasimali were abusing each other. The informant tried to intervene. Kasimali abused and manhandled the informant. In the meantime, the Applicant No. 1's brother Abdul Salam came there with an iron rod. He pushed the informant, who fell down. After that the Applicant No. 1 - Abdul Kalam came there and then all of them started beating the informant with fist and kick blows. In the meantime, the Applicant No. 1's brother Abdul Salam gave blow with iron rod on informant's right hand. The informant friend's sister tried to intervene. It is alleged that accused tore clothes and outraged her modesty. On this basis, the FIR is lodged.

4. Learned Counsel for the Applicants submitted that the incident is not properly described in the FIR. In fact, the Applicant No. 1's father Kasimali was assaulted and therefore he tried to lodge the FIR but no cognizance was taken by the police. Ultimately, with great efforts the Applicant No. 1's father's FIR was lodged at the same Kandivali (West) police station vide C. R. No. 824 of 2023. After this FIR is lodged, as a counterblast, allegations were made against the Applicant and his father and therefore, the present FIR is lodged. She submitted that the Applicants have not

been attributed any serious role in the incident. She submitted that the allegations of outraging modesty are added to give a serious colour to the entire incident.

5. Learned APP and learned Counsel for the informant opposed the grant of relief in the Application on the basis of averments in the FIR.

6. Learned APP produced the investigation papers before me.

7. I have considered these submissions and I have perused the investigation papers. The medical certificates of the informant, Anand Sharma shows that he had suffered fracture to right hand's little finger. There was no other injury that is specifically attributed to the Applicant No. 1's brother Abdul Salam. There are no other signs of any assault. Therefore, the allegations against the Applicants are not supported by the medical evidence. There is hardly any allegations against the Applicant No. 2. He is not named in the FIR. The allegations appear to be exaggerated. There is no explanation as to why the FIR is lodged belatedly on 15/11/2023 though the alleged incident had taken place on 07/11/2023. From the narration, even the prosecution case is that the main target was the informant as he had tried to intervene in the quarrel. The intention of the accused was not to outrage the

modesty of the lady who subsequently intervened. There is no independent circumstance corroborating the allegations of outraging of modesty. Apart from the informant, that lady herself and one Farooq Shaikh has narrated the incident in the same manner as is described in the FIR.

8. Hence, considering the much lesser role attributed to the Applicants, their custodial interrogation in the present case is not necessary. They can be protected u/s 438 of Cr.P.C.

9. Hence, the following order:

ORDER

(i) In the event of their arrest in connection with C. R. No. 824 of 2023 registered at Kandivali West Police Station, the Applicants are directed to be released on bail on their furnishing P. R. bonds in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each with one or two sureties in the like amount.

(ii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)