

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

ANTICIPATORY BAIL APPLICATION NO. 413 OF 2024

Shaukat Ali Abbas Ali Sayyed

..Applicant

Versus

State of Maharashtra

..Respondent

Mr. Abhishek Kulkarni a/w. Sagar Wakale for Applicant.

Ms. Pallavi N. Dabholkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 12 FEBRUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.1522 of 2023 registered at Malvani Police Station, Mumbai, on 29.11.2023, under sections 143, 144, 147, 307, 324, 323, 506(II), 148, 149 of the Indian Penal Code and U/s.37(1)(a) and 135 of the Maharashtra Police Act.

2. Heard Mr. Abhishek Kulkarni, learned counsel for the applicant and Ms. Pallavi Dabholkar, learned APP for the State.

3. The F.I.R. is lodged by one Roshan Gulamali Sayyad. She has stated that her father in law had a house at Pascal wadi.

There was a dispute between her father in law's elder brother Sattar and the informant's family. On 29.11.2023, at about 3.30p.m. the informant and her husband were in the house. Her husband received one call. He went away. She followed him. She saw that Sattar, his nephew Dilshad, Sattar's son Naim and one Salman, as well as, two unknown persons having iron pipe and iron rod were standing there. The informant's husband called his brother Nuruddin. Pursuant to that, Nurrudin and informant's nephew Kamran and Arman came there. Both sides started abusing each other. A free fight started. Sattar gave a blow with an iron pipe on the informant's husband's head. Sattar gave similar blow to Arman on his head. Dilshad and Naim assaulted Nuruddin with an iron rod. Salman and other two unknown persons assaulted the informant and Samida i.e. the informant's mother in law with hands. After that the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that, it was a free fight and the applicant's side had lodged an F.I.R. vide C.R.No.1524 of 2023 at the same police station on 30.11.2023 mainly U/s.326 of the I.P.C. In that incident, the informant in that

case Moin Ali, Dilshad, Arman etc. were assaulted. He submitted that, it was a case of free fight. The applicant's name is not mentioned in the F.I.R.

5. Learned APP produced the investigation papers before the Court. They contain medical papers which show that the informant's husband had suffered head injury as narrated in the F.I.R. Even Nuruddin and Arman had suffered injuries as described in the F.I.R. She submitted that the applicant's name has transpired in the supplementary statement of the informant recorded on 04.12.2023.

6. I have considered these submissions. Though, the injured have suffered injuries as mentioned in the F.I.R., the applicant's name is not mentioned in the F.I.R. There is a reference to two unknown persons. The prosecution case is that the applicant was one amongst them. The supplementary statement of the first informant mentions that, she came to know the names of the unknown persons. One of the names was that of the applicant. Thus, even this supplementary statement does not show that the

first informant had personal knowledge about the identity of the unknown persons who had taken part in the assault. In any case, hardly any role is attributed to the unknown persons. It was a case of free fight, so that, both the groups lodged cross F.I.Rs. against each other. Considering this weak nature of allegations against the applicant, his custodial interrogation is not justified. 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.1522 of 2023 registered at Malvani 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.)