

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

ANTICIPATORY BAIL APPLICATION NO. 466 OF 2024

Afsar Istiyaq Khan

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Zaid Siddiqui for Applicant.

Mr. Ashish Satpute, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 16 FEBRUARY 2024

PC. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.05 of 2024 registered at Kapurbavdi Police Station, Thane city, on 03.01.2024, under sections 326, 323, 504 and 506 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Zaid Siddiqui, learned counsel for the applicant and Mr. Ashish Satpute, learned APP for the State.

3. The F.I.R. is lodged by one Firoj Abdul Gani Khan. He has stated that there was some dispute with his elder brother Istiyaq about their ancestral property. On 03.01.2024, at about

12.30p.m., Istiyaq's son Afsar i.e. nephew of the informant and one unknown person came to the workplace of the informant and the applicant started assaulting the informant with wooden bamboo. The informant's son Asif tried to intervene. He was assaulted on his legs. The unknown person accompanying the applicant also took part in the assault. On this basis the F.I.R. is lodged.

4. Learned counsel for the applicant submitted that, it is a petty incident between the near relatives. Now the matter is settled with the help of other relatives. He submitted that, in this view of the matter, custodial interrogation of the applicant will unnecessarily create trouble between the family members.

5. Learned APP produced the investigation papers before me which contain statements of the eye witnesses i.e. son of the informant and one of the employees of the informant. They have supported the informant's case. The medical certificates show that the informant's son had suffered some minor injuries and the applicant had suffered only one injury on the left hand and there is small chip fracture of third metacarpal bone.

Learned counsel for the applicant submitted that the said injury is possible due to fall.

6. I have considered these submissions. The incident does appear to be between the family members and it appears to be a petty incident. There is a possibility that the injury mentioned in the medical certificate is caused due to fall. In any case, the allegations are that the informant was assaulted by bamboo stick. But there are hardly any other injuries on the person of the informant except that small chip fracture of a finger. In this view of the matter, there is a possibility that the allegations are exaggerated and the applicant has not committed that offence. Therefore, the applicant can be protected U/s.438 of the Cr.p.c. His custodial interrogation is not necessary.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.05 of 2024 registered at Kapurbavdi Police Station, Thane city, 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.)