

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

ANTICIPATORY BAIL APPLICATION NO. 468 OF 2024

Rahul Lubhansing Patil

..Applicant

Versus

The State of Maharashtra

..Respondents

Mr. Arun T. Mhaske a/w. Chetan V. Muley for Applicant.

Mr. M. S. Sonavane, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 16 FEBRUARY 2024

P.C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No.6 of 2024 registered at Vashi Police Station, Navi Mumbai, on 03.01.2024, under Section 326 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Arun Mhaske, learned counsel for the applicant and Mr. Sonavane, learned APP for the State.

3. The F.I.R. is lodged by one Riyaj Shaikh. He has stated that, there was enmity between the applicant and himself as the applicant had dissuaded his friend Shivcharan from selling his

house to the present applicant. On 31.12.2023, at around 2,30a.m. the informant was sitting near the divider outside the building. He was talking with the watchman Kirti. At that time, the present applicant and Shivcharan came with one friend in a four wheeler. The applicant picked up quarrel in respect of the previous enmity. While the informant was trying to explain his side, the unknown person gave a fist blow on the informant's face causing injury to his left hand. The applicant and Shivcharan started assaulting him with kicks and fist blows. He fell down. At that time, the applicant kicked him forcefully. He removed the iron ring which he was wearing and with that iron ring he started giving blows on the face of the informant causing serious bleeding injuries. The watchman Kirti tried to save him, but he was threatened. The watchman called the informant's wife and daughter. They were also threatened. After some time, the assailants went away. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the incident is captured in CCTV footage, but there is no clear indication of use of an iron ring. He submitted that the allegations

are exaggerated. It was a midnight of new year and on that occasion the applicant and the informant both were under influence of liquor and at that time, this incident had taken place. He submitted that since the use of weapon is doubtful, the offence U/s.326 of the I.P.C. is not made out. In any case, the police have recovered the iron ring and, therefore, custodial interrogation of the applicant is not necessary. He further submitted that, there is a delay of three days in lodging of F.I.R. It was lodged on 03.01.2024.

5. Learned APP opposed these submissions. He produced the investigation papers before me including the statements of the eye witnesses.

6. I have considered these submissions. The informant's version is supported by his daughter and wife, as well as, by the watchman. All of them have stated that the applicant had used iron ring in assaulting the informant. The injury certificate shows that the informant had suffered undisplaced fracture of the right maxillary sinus in left mandible and there was mildly displaced

segmental fracture of left zygomatic process. Thus, the offence U/s.326 of the I.P.C. is made out.

7. Considering the nature and manner in which the informant was assaulted, the applicant cannot be protected U/s.438 of the Cr.p.c.

8. The application is rejected.

(SARANG V. KOTWAL, J.)