

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 569 OF 2024

Nooruddin Ali Usman Ali

.... Applicant

Versus

The State of Maharashtra

.... Respondent

YUGANDHARA
SHARAD
PATIL

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by
YUGANDHARA
SHARAD PATIL
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Mr.Jainesh S. Mishra aw/ Arvind Y. Yadav i/b Prem Pandey, for the
applicant.

Mr. Nitin B. Patil, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.
DATE : 29th FEBRUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection
with C.R. No. 1524 of 2023 registered at Malvani Police Station on
30/11/2023, under sections 326, 324, 323, 506(2), 143, 144, 148,
149 of the Indian Penal Code and under Section 37 and 135 of the
Maharashtra Police Act.

2. Heard Mr. Jainesh Mishra, learned counsel for the
Applicant and Mr. Nitin Patil, learned APP for the Respondent-
State.

y.s.patil

1 of 5

3. The FIR is lodged by Moin Ali @ Naim Sattar Ali Sayyed. He has stated that there was a dispute between himself and his cousins regarding ownership of one room. On 29/11/2023 at around 3.00 p.m. he was going towards Mamu Galli. He was stopped by his cousins Sharukh, who called him near Sahara Hotel, Malad (West). At 3.30 p.m., the informant went there. At that time, his other cousin Gulamali, the present applicant, Sharukh Hanif, Kamran Aarif were waiting. Gulamali started shouting and abusing. He started assaulting him with kick and fist blows. The informant called his brothers through his nephew. The informant's relatives Arman @ Munna, Dilshad, Farman etc. came there. It is alleged that Gulamali assaulted the informant with iron rod on his hand. The applicant and Sharukh gave blows with sharp weapons on the informant's back. Somebody assaulted him with iron rod. Informant's other companions were also assaulted. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the narration against the applicant in the FIR is not true. In fact, the

Applicant and Sharukh were brutally assaulted by the informant's group for which a separate C.R. No. 1522 of 2023 was registered at Malvani Police Station prior to registration of the FIR against the Applicant. He submitted that in that incident the Applicant himself has suffered serious injuries. The Applicant's companion Sharukh had suffered head injury.

5. Learned APP, on instructions of the Investigating Officer, accepted that in the counter FIR bearing C.R. No. 1522 of 2023 now section 307 is added. Thus the FIR lodged by the Applicant's side shows more serious injuries suffered by the Applicant's group. Learned APP produced investigation papers.

6. I have considered these submissions. Medical papers of the first informant are not produced. However, medical papers of Dilshadali and Farman from the informant's group are produced. Both of them have suffered fracture of one of their fingers. Besides that, there are no medical papers. Even accepting that these two have suffered grievous injuries and even assuming

that the complainant has suffered injuries, the fact remains that the Applicant himself has suffered many injuries as follows:-

- (I) Deep laceration on the right thigh 3 cm x 1 cm x 3 cm.
- (ii) CLW 1x 2 cm on right shoulder.
- (iii) Abrasion on neck.
- (iv) Bruise on left shoulder.
- (v) Swelling and deformity of left shoulder.
- (vi) Bruise right shoulder.
- (vii) Swelling and bruise lower back.
- (viii) CLW 1 x 0.5 cm.

7. Thus it can be seen that the Applicant was severally beaten. His companion Sharukh had suffered head injury. Thus the FIR lodged against the Applicant does not narrate the correct facts. The Applicant himself has suffered many injuries.

8. In this view of the matter, the custodial interrogation of the Applicant is not necessary. He can be protected under section 438 of Cr. P.C. Hence, the following order.

ORDER

(I) In the event of his arrest in connection with

C.R. 1524 of 2023 registered at Malvani Police Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- (ii) The Applicant shall attend the concerned Police Station as and when called and shall co-operate with the investigation.
- (iii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)