

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

ANTICIPATORY BAIL APPLICATION NO.684 OF 2024

1. Kafeel Ahmed Khan,
2. Zeenat Kafeel Ahmed Khan, &
3. Nilofer Tariq Khan. Applicants
Versus
The State of Maharashtra Respondent

Ms. Bhagyesha Kurane, Advocate i/b. Vijay Kurle, Chandra
Shekhar Acharya for the Applicants.

Mr. C.D. Mali, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 11th MARCH, 2024

PC. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.169/2024 registered at Bandra Kurla Complex Police Station, Mumbai on 23.2.2024 under Sections 141, 143, 147, 427, 149, 504, 506 of IPC.

2. Heard Ms. Bhagyesha Kurane, learned counsel for the Applicants and Mr. C.D. Mali, learned APP for the Respondent-State.

3. The FIR is lodged by one Noor Alam Munawar Shaikh. He has stated that he was doing the work of welding

for Vihan Enterprises. M/s. Budhpur Buildcom Pvt. Ltd. was carrying out the redevelopment work at Bharat Nagar. The first informant's company Vihan Enterprises was given the contract by the developer. The informant, therefore, was present at the site on 22.2.2024. At about 5.00 p.m., the informant and others started building a compound at the site. At that time, all the Applicants and others came there. They prevented the informant and others from carrying out their work. Because of their fight the police came there and one of them was taken to the police station. The Applicants and others followed them. After some time, the Applicants and others came towards them. They started pushing the informant and others. They removed the material which was used for raising compound there. On this basis, the FIR is lodged. It appears that subsequently Section 326 of IPC was applied because according to the prosecution case one Salman Shaikh was stabbed by one Zakir in the same incident.

4. Learned counsel for the Applicants submitted that in the FIR, there is no mention about the incident of stabbing. In any case the role of stabbing is not attributed to the present

Applicants. The role, at the highest against them, is that they prevented the informant and others from raising compound at that site. No serious offence is committed by the Applicants and, therefore, their custodial interrogation is not justified.

5. Learned APP produced the investigation papers before me.

6. I have considered these submissions. I have also perused the investigation papers produced before me. The injury certificate of Salman Shaikh shows that he had suffered one stab wound on the stomach of the size 3 cm x 2 cm x 1 c.m.. It is described as a grievous injury. However, surprisingly in the FIR there is no reference to any stab injury caused to anybody including Salman. Those allegations are made subsequently. There are statements of Tabrej and Zamir. They have stated that as the Applicants and others were quarreling with the opposite group, one Zakir went to his fruit-selling cart and brought a knife and gave a blow on Salman's stomach. This particular incident of stabbing had occurred on the spur of moment. It is restricted to Zakir. He had gone to his cart. He had brought a knife and had given a blow. The Applicants have not played any

part in that incident. They only prevented construction of the compound at the site. In the facts of this case, the act of Zakir can be separated at this stage. The Applicants have not caused any injury to anybody else. The role attributed against them is not serious. Therefore, they can be protected under Section 438 of Cr.PC.

7. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.169/2024 registered at Bandra Kurla Complex Police Station, Mumbai, the Applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (ii) The Applicants shall attend the concerned police station as and when called and shall cooperate with the investigation.
- (iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
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2024.03.12
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