

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

ANTICIPATORY BAIL APPLICATION NO. 746 OF 2024

Mubina Bano Zakir Parve & Anr.

..Applicants

Versus

The State of Maharashtra

..Respondent

Ms. Bhagyesha Kurane i/b. Vijay Kurle for Applicants.

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

CORAM : SARANG V. KOTWAL, J.

DATE : 18 MARCH 2024

P.C. :

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. Nitin Patil, 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, both 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 counsel relied on the order dated 11.03.2024 passed in A.B.A.No.684 of 2024. Vide the said order, three other co-accused Kafeel Khan, Zeenat Khan and Nilofer Khan were granted anticipatory bail by this court in the said offence. She relied on that order to claim parity.

6. Learned APP produced the investigation papers before me.

7. I have considered these submissions. The injury certificate of Salman Shaikh shows that, he had suffered one stab wound on his stomach of the size 3cm x 2cm x 1cm. It was described as a grievous injury. In the F.I.R., there is no reference to stab injury. These allegations are made subsequently. There are statements of the eye witnesses Tabrej and Zamir. Their statement are similar. There is a statement of the injured Salman. He has stated that, while the incident of quarrel was going on, the accused 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 the accused Zakir. He had gone to his cart and had brought a knife and had given a blow. The applicants have not played any part in stabbing. They were involved in prevention of construction of the compound at the site. Therefore, in the facts of this particular case, the act of Zakir can be separated at this stage. The applicants have not caused any injury to anybody else. The role attributed to them is not serious. The principle of parity also applies to these applicants as the co-accused Kafeel, Zeenat and Nilofer are protected by anticipatory bail order. The present applicants can also be similarly protected.

8. 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 executing P. R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each 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) The Application is disposed of.

(SARANG V. KOTWAL, J.)