

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

ANTICIPATORY BAIL APPLICATION NO. 885 OF 2024

Zakir Hussain Parve

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Vijay Kurle (through V.C.), for Applicant.

Mr. C. D. Mali, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 4 APRIL 2024

P.C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No.169 of 2024 registered at B.K.C. Police Station, Mumbai, on 23.02.2024, under Sections 141, 143, 147, 149, 427, 504 and 506 of the Indian Penal Code. Subsequently, Sections 326 and 447 of the I.P.C. were added on 24.02.2024.

2. Heard Mr. Vijay Kurle, learned counsel for the applicant and Mr. Mali, learned APP for the State.

3. The F.I.R. is lodged by one Noor Shaikh. He has stated that, on 22.02.2024, he had attended his work of welding at plot

No.22 in front of Bandenawaz Restaurant, Bharatnagar, BKC, Mumbai-51. He reached there at around 3:00p.m. His supervisor Anwar Khan was present at the spot. The informant and his co-workers started constructing the compound at 5:00p.m. At that time, the present applicant, Kapil Khan, Zinat Khan and Nilofer Khan came there. They were not allowing the informant and others to continue their work. The police vehicle came there and Anwar Khan was taken to the police station. The aforementioned persons along with the applicant went to the police station. Thereafter, those people again came back to the spot and entered that land. They removed the channels which were placed by the informant. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that, in this F.I.R. there is nothing to show that the offence U/s.326 of the I.P.C. was made out. Only during the proceedings before the Sessions Court in respect of anticipatory bail application of some of the accused, the injured person intervened and claimed that, he was assaulted in the said incident and thereafter the police invoked Section 326 of the I.P.C. He submitted that the applicant is

a poor fruit vendor and he has not committed any offence. The applicant is deliberately implicated in this offence because he was raising voice against the illegal constructions.

5. Learned APP opposed these submissions and produced the investigation papers before me.

6. I have considered these submissions. The investigation papers included the statement of the injured Salman Shaikh Parvez. His statement was recorded on 23.02.2024. He has stated that, on 22.02.2024 when he and his co-workers were working on that plot, the present applicant and others came there. There were 30-40 persons. They were obstructing the work. It is specifically mentioned that the present applicant was having a fruit selling cart near the plot. The said injured witness Salman knew the present applicant. Salman mentioned in his statement that the applicant ran towards his cart, brought a knife and gave a blow on Salman's stomach; who suffered bleeding injury. After that, the applicant and others ran away from the spot. Salman was taken to hospital at Santacruz. The injured required 8 stitches and then he was sent to Cooper Hospital. He was admitted to I.C.U. This is the

statement given by the injured Salman Shaikh Parvez. His statement is supported by the witness Zamir Hussain and Tabrez Hussain. They have not seen the actual assault on Salman, but they had seen Salman in injured condition and they had asked him about the injury. At that time, Salman had told them that the applicant had inflicted that stab wound. Apart from that, there is circumstance of medical certificate which shows that the injured Salman had suffered grievous injury of the size 3cm x 2cm x 1cm by a sharp object on his stomach. The police papers also show that the P.S.I. BKC police station had informed the Metropolitan Magistrate, 71st Court, Bandra, Mumbai regarding addition of Sections 326 and 447 of the I.P.C. In that application dated 24.02.2024 itself it was clearly mentioned that, Salman was assaulted by the present applicant by knife. All these circumstances are strong incriminating circumstances against the present applicant. In this view of the matter, the applicant cannot be protected U/s.438 of the Cr.p.c.

7. The application is rejected.

(SARANG V. KOTWAL, J.)