

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

ANTICIPATORY BAIL APPLICATION NO.940 OF 2024

Niranjan Rajan Pooja Lokhande Applicant
Versus
The State of Maharashtra Respondent

Mr. Roopesh Jaiswal, Advocate for the Applicant.
Ms. Poonam P. Bhosale, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 10th APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.154/2024 registered at Khadakpada Police Station, Thane on 8.2.2024 under sections 324, 323 read with 34 of IPC. After the medical certificate was issued, Section 326 of IPC is added.

2. Heard Mr. Roopesh Jaiswal, learned counsel for the Applicant and Ms. Poonam Bhosale, learned APP for the Respondent-State.

3. The FIR is lodged by one Sadnesh Lokhande. He has stated that the informant's father's cousin Sangam and the informant's father were having dispute over some land. On 7.2.2024 at about 8.30 p.m. the informant's father was standing in front of his house. At that time, Sangam came there. They started quarreling with each other. Sangam started beating the informant's father. Therefore, the informant intervened. At that time the present Applicant, who was son of the said Sangam came there with a wooden log. He tried to give blow on the informant's father but, since the informant intervened, the present Applicant assaulted the informant on his head. Because of that he felt giddiness and he fell down. When he regained his consciousness, he found that he was in Aayush hospital and was being treated. Based on these allegations, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the offence under Section 326 of IPC is not made out. The weapon used in this case cannot be said to be the one attracting Section 326 of IPC. The informant was suffering

from fits and, therefore, he may have fallen down on his own. The Applicant had not assaulted him . The incident occurred on the spur of moment and it was beyond anybody's control. At the highest the offence could be under Section 324 of IPC.

5. Learned APP opposed these submissions. She produced the investigation papers before me which contain the medical papers and the statements of the eye witnesses.

6. I have considered these submissions. The Medical certificate shows that the C.T. scan of brain was conducted. It shows sub-arachnoid haemorrhage with tiny contusions. There was serious injury which was endangering life. The medical certificate further mentions that those injuries were grievous in nature. The weapon used is wooden log. Therefore, all the ingredients of Section 326 of IPC are clearly made out. At this stage there is the statement of the injured himself. He is supported by the other eye witnesses i.e. father of the informant and the mother of the informant. There is statement of an independent witness Swapnil Lokhande. All this evidence was consistent. At this stage, the incident is

described consistently and the blow is attributable to the present Applicant. The injury is quite serious causing sub-arachnoid hemorrhage.

7. Considering the gravity of the offence and the specific role attributed to the present Applicant, he cannot be protected under section 438 of Cr.PC. The Application is rejected.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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by
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PRAKASHRAO
DESHMANE
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