

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

ANTICIPATORY BAIL APPLICATION NO. 979 OF 2024

(1) Mohammed Zakir Ansari,
(2) Mohammed Haseeb Ansari @ Asif Ansari ..Applicants
Versus
The State of Maharashtra ..Respondents

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Mr. Murtuza Nazmi a/w. Moin Choudhari i/b. A. A. Siddiquie
Associates for Applicants.
Mr. C. D. Mali, APP for State/Respondent.

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CORAM : SARANG V. KOTWAL, J.
DATE : 19 APRIL 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.260 of 2024 registered at Shivaji Nagar Police Station, Mumbai, on 29.03.2024, under sections 326, 323, 504 and 506(II) of the Indian Penal Code and U/s.37(1)(a) and 135 of the Maharashtra Police Act.
2. Heard Mr. Murtuza Nazmi, learned counsel for the applicants and Mr. Mali, learned APP for the State.
3. The F.I.R. is lodged by one Rafiq Nazir Ansari. He has

stated that, he was knowing the applicant No.1 since many years. There was some dispute between the informant's family and the applicants' family in respect of a post of trustee of a Masjid. On 28.03.2024, at about 10:30p.m. the informant was returning home. At that time, he saw that the applicant No.1 Zakir was talking to the informant's 6 year old niece. There was a quarrel. At that time, Zakir's brother i.e. applicant No.2 came there and started beating the informant. The applicant No.1 Zakir removed a knife and gave a blow on the left side of the abdomen of the informant. The informant raised shouts. The people in the locality came there to save him. The applicant No.1 threatened them. After the assault, the accused left the place. The informant was taken to Shatabdi Hospital. Thereafter he went to Shivaji Nagar police station. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicants submitted that the applicant No.1 Zakir is handicapped person. The informant was well built. It was not possible that the applicant No.1 could have pulled the informant on the road. He submitted that the injury is superficial and, therefore, Section 326 of the I.P.C. is not

applicable. At the highest, it can be an offence U/s.324 of the I.P.C. One Mohammad Jasim Abdul Mannan Ansari had lodged his own F.I.R. in the same police station vide the C.R.No.261 of 2024, under section 326 of the I.P.C. and other sections; in respect of the incident dated 28.03.2024 which had taken place on 10:30p.m. In that incident, the informant Rafiq's brother Sami had given blows with a sharp weapon on Jasim's left hand and on his neck. He submitted that, as a counter blast to protect themselves this false F.I.R. is filed against the applicants. The injuries could be self inflicted injuries.

5. Learned APP opposed these submissions. He produced the investigation papers before the Court.

6. There is not a single eye witness whose statement is recorded. This is quite surprising, because the F.I.R. itself shows that people had gathered there. The medical certificate shows that there were two incised wounds of the size 5cm x 0.5cm and 8cm. x 0.5cm. The injuries are described as simple injuries. There is force in the submission of learned counsel for the applicants that,

Section 326 of the I.P.C. may not be attracted in this case. There is a background of enmity and dispute between the parties. Therefore, a possibility of false implication and exaggeration cannot be ruled out. The F.I.R. is lodged on the next day at about 2:00p.m. This delay is not explained by the first informant. Considering the nature of the injuries it was not difficult to lodge an F.I.R. immediately or at least in the early morning. Therefore, there is a possibility of false implication. In this view of the matter, custodial interrogation of the applicants is not necessary. They can be protected U/s.438 of the Cr.p.c. However, considering the enmity and the F.I.Rs. lodged against each other, some conditions are required to be imposed on them.

7. Hence, the following order :

ORDER

- i) In the event of their arrest in connection with C.R.No.260 of 2024 registered at Shivaji Nagar 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) In addition, the applicants shall report to the concerned police station once in a fortnight for a period of four months from today.
- iv) The Application is disposed of.

(SARANG V. KOTWAL, J.)