

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

ANTICIPATORY BAIL APPLICATION NO.1082 OF 2024

Vicky Dharma Devendra & Anr. Applicants

versus

The State of Maharashtra Respondent

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- Mr. Asif Latif Shaikh, Advocate for Applicants.
- Mr. Avinash A. Naik, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 23rd APRIL, 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.136/2024, dated 10/02/2024, registered with Malad Police Station, Mumbai, under sections 323, 324, 326, 504 r/w 34 of the Indian Penal Code.

2. Heard Mr. Asif Latif Shaikh, learned counsel for the Applicants and Mr. Avinash A. Naik, learned APP for the State.

3. The FIR is lodged by one Vyankatesh Devendra. The

present Applicants are his relatives. On 09/02/2024 at about 11.40 p.m. the informant along with his brothers and uncle was standing in front of his uncle's house. At that time, one Kartik and both the Applicants were passing from that road. Kartik made some gestures towards them, due to which the informant's uncle and brothers questioned Kartik. He started abusing them. Therefore, the quarrel started. It is alleged that Kartik picked up an iron rod and gave a blow on Nityanand's head. It is alleged that both the Applicants beat him with hands. Kartik gave a blow to the informant as well. Nityanand was taken to a hospital and after that this FIR is lodged.

4. Learned counsel for the Applicants submitted that the main accused Kartik is arrested and he is released on bail. The iron rod is recovered from him. The Applicants' custodial interrogation is not necessary for the investigation purpose or for recovery of the weapon.
5. Learned APP produced the investigation papers including the medical papers in respect of the injury suffered by

Nityanand. He relied on the investigation papers to oppose this application.

6. I have considered these submissions. The injured Nityanand had suffered three injuries. Out of which, there were two injuries were on his head. They were of the size 8 x 3 x 2 cm and 10 x 2 x 2 cm. They appeared to be serious injuries. Stitches were required. However, the cause of injury was the blow given by the accused Kartik. The narration in the FIR mentions that the incident had occurred at the spur of moment following a quarrel between Kartik and the informant's group. The only role attributed to the Applicants is beating Nityanad with hands. From the narration it is clear that there is no premeditation or no preparation to commit this offence. In this case, even the main accused was not carrying any weapon. He just picked up an iron rod lying on the road and had used it. There is scope to believe that the Applicants had not shared any common intention with the main accused Kartik. Therefore, they can be protected u/s 438 of Cr.PC.

7. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.136/2024, dated 10/02/2024, registered with Malad Police Station, Mumbai, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.
- (ii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)