

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

ANTICIPATORY BAIL APPLICATION NO.1087 OF 2024

Akram Fakir Mohd. Pathan (Khan) & Anr.	..Applicants
Versus	
The State of Maharashtra	..Respondents

Mr. Anand Mishra i/b. Mr. Ashok M. Saraogi, for Applicants.
Ms. Poonam P. Bhosale, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 30 APRIL 2024

P. C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.149 of 2024 registered at Kurla Police Station, under sections 143, 147, 153B, 323, 326, 386, 504, 506 read with section 34 of the Indian Penal Code. Subsequently, the investigation was transferred to Dharavi Police Station.
2. Heard Mr. Mishra, learned counsel for the applicant and Ms. Bhosale, learned APP for the State.
3. The F. I. R. is lodged by one Harun Takare. He has stated that was a hawker selling shirts and T-shirts outside Kurla

Railway Station. The hawker in that area were harassed by the antisocial elements in that area. The informant had named both the Applicants who were harassing him. They were collecting extortion money from the hawkers. One of them was telling the informant to pay ₹ 1,00,000/- as protection money. The informant used to refuse to concede to their threats. On 2nd September 2023, at about 2:00 p.m., 8 to 9 accused came there. The informant has specifically named both the Applicants. They started abusing the informant and started demanding the extortion money. The Applicant No.1 asked for ₹ 1,00,000/- as protection money. The Applicant No.2 assaulted him with an iron rod. The Applicant No.1 asked him to raise objectionable slogans. This was done to cause disharmony between different communities. The informant suffered injuries on his chest and shoulder. After that, the accused went away. The informant went to the Police Station, but he was sent to Bhabha hospital. The doctor in that hospital sent him to Sion hospital. He was admitted and treated there. After his discharge he again went to the Police Station, but the officers at Kurla Police Station did not register the F.I.R. instead; they

registered NCR No.979/2023 u/s. 323, 504, 506 of the IPC. Beyond that, the police did not take any action. In the meantime, the informant started feeling uneasy. He went to one private hospital. Then he went to K.E.M. Hospital, Parel. The police were not taking any action. The informant filed Criminal Writ Petition (ST) No.4263/2024 before this Court. A Division Bench of this Court passed an order in that Petition. After that, the informant went to the police station and thereafter this F.I.R. is registered.

4. Learned counsel for Applicants submitted that the informant was examined on 2nd September 2023 in Sion Hospital but the certificate issued by that hospital at the first instance mentioned that there were no external injuries. In the coloumn of nature of injury it was mentioned as 'simple injury'. It was also remarked that there was no evidence of any bleeding or fracture.

5. He further submitted that the informant had made false allegations. He invited my attention to the NC registered on 2nd September 2023 in which the informant had named only the Applicant No.1. Applicant No.2 was not named. He, therefore

submitted that Applicant No.2 is falsely implicated alongwith Applicant No.1. He submitted that after the incident on 2nd September 2023, there was another incident in which he was assaulted and had suffered two injuries.

6. Learned A.P.P. opposed these submissions. She relied on the Medical Certificate issued by K.E.M. Hospital in which it was clearly mentioned that there was a linear undisplaced fracture in the left 2nd rib and there was a linear undisplaced fracture of the base of the coracoid process of the left scapula of the informant.

7. Learned A.P.P. relied on the Order passed by this Court on 18th April 2024 in Anticipatory Bail Application No.973 of 2024 in case of Feroz Khan s/o. Fakir Mohd. Khan & Anr. Versus State of Maharashtra & Anr. By that Order, Anticipatory Bail Application of both the accused was rejected.

8. I have considered these submissions. The reasons given in the Order dated 18th April 2024 in Anticipatory Bail Application No.973 of 2024 are squarely applicable to the present case. As far as the NCR is concerned, Applicant No.1 is specifically mentioned.

There is name of another accused. However, in the history given in the Sion Hospital, there was a reference of 10 to 12 persons assaulting the informant. At the very first instance there was a mention that he was assaulted by 10 to 12 persons.

9. The defence raised by the Applicant that the informant was subsequently assaulted between 2nd September 2023 to 9th November 2023 when the K.E.M. Hospital issued another medical Certificate, is also unbelievable. Right from the beginning the informant was complaining about the pain in his right shoulder and chest. All these aspects are already discussed in the Order dated 18th April 2024. Specific role is attributed to Applicant No.2- Farhan who had assaulted the informant with an iron rod. Applicant No.1 had threatened and had demanded ₹ 1,00,000/- as extortion money. Thus, the offence is serious. There is substantially strong material against present Applicants. Applicants do not deserve protection under section 438 of Cr. P. C. The application is accordingly rejected.

(SARANG V. KOTWAL, J.)

KISHOR
VISHNU
KAMBLE
Digitally signed
by KISHOR
VISHNU
KAMBLE
Date:
2024.05.04
15:06:10 +0530