

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

ANTICIPATORY BAIL APPLICATION NO.1133 OF 2024

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Trambak Dagadu Karnar

...Applicant

versus

The State of Maharashtra

.... Respondent

Mr. Ramesh Dube Patil, a/w Mr. Swaraj Patil a/w Lisa Das i/b Jay
and Co. for the Applicant.

Mr. Nitin B. Patil, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 26th APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R. No.55 of 2024 registered with Vadner Khakurdi Police Station under Sections 323, 326, 34, 504, 506 of the IPC.
2. Heard, Mr. Ramesh Dube for the Applicant and Mr. Nitin Patil, learned APP for the State.
3. FIR is lodged by one Samadhan Pawar. He had stated that on 27th January 2024, at about 6.30 p.m. his father Mahadu Pawar told him that the Applicant had taken about Rs.70,000/- from

him and had also taken a gold chain as a loan. When his father asked for returning those, he was not willing to return the money and the chain. The informant's father had raised that issue in the Grampanchayat and therefore, a meeting was arranged. The informant and others gathered at an open place in the ground in front of the Grampanchayat office at about 8.00.p.m. The peon of the Grampanchayat was sent to the Applicant's house, but the Applicant did not come to attend the meeting. Therefore, the informant's younger brother Avinash was sent there. The Applicant fought with Avinash who raised the shouts. Therefore, all those who had gathered there, ran towards the Applicant's house. The Applicant removed an iron rod and gave a blow on Avinash's head. He fell down suffering a bleeding injury. The informant's father was also assaulted. The victims were taken to the hospital and the FIR was lodged. There are allegations that the Applicant's son threatened them with an axe. He threw a stone causing injury to the informant's younger brother.

4. Learned counsel for the Applicant submitted that the FIR

itself shows that the informant and his group were the aggressors. The mob of many people attacked the Applicant's house causing severe damage. The Applicant himself has lodged his own FIR bearing C.R. No.52 of 2024, under Sections 143, 144, 147, 148, 149, 323, 324, 504, 427, 506 of the IPC. He submitted that the allegations in the FIR against the Applicant are not true. The allegations are made out of a political rivalry.

5. Learned APP, opposed this submission. He submitted that the injured Avinash has suffered grievous injury to his skull. The Applicant had assaulted him with an iron rod. Therefore, considering gravity of the offence, the Applicant cannot be protected. The Applicant has three antecedents.
6. I have considered these submissions. Avinash has suffered grievous head injury, which is directly attributed to the present Applicant. The informant's father has not suffered any serious injury. However, this has to be looked at in the background of the FIR lodged by the Applicant. I have perused the investigation papers in connection with C.R. No.52 of 2024 of the same Police Station. In particular, I have seen that spot Panchanama. It

shows that the Applicant's house was severely damaged. There were stones and bricks lying everywhere. The door and windows were broken. There were broken glass pieces all over the house. The T. V. was damaged. The Applicant's motorcycle was completely damaged. Therefore, the Applicant's FIR is supported by this spot Panchanama. Applicant has not described the injury caused by him to Avinash. However, looking at both these FIRs it appears that the mob consisting of many people had attacked the Applicant's house and had caused severe damage. His entire family was reasonably apprehensive about their own safety and therefore, if during that period the Applicant had assaulted Avinash, at this stage, some benefit can be given to him. There are antecedents against the Applicant, but looking at the nature of the incident, the Applicant's conduct will have to be independently considered. In this case, a mob had attacked the Applicant's house. There was serious damage to his house and property. The Applicant had reasonable apprehension of potentially grievous injuries to himself and his family members. Therefore, to that extent, he had the right of private defence.

All this will have to be decided during the trials arising out of both these FIRs. However, at this stage, the Applicant can be given benefit under Section 438 of the Cr.Pc.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 55 of 2024 registered at Vadner Khakurdi Police Station, Nashik, the Applicant is directed to be released on bail on his executing PR bond in the sum of Rs.30,000/- (Rs.Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall co-operate with the investigation.
- (iii) The Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)