

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

ANTICIPATORY BAIL APPLICATION NO.1191 OF 2024

Ritesh Kishor Tari @ Babu Applicant
Versus
The State of Maharashtra Respondent

Dr. Samarth Karmarkar, Advocate a/w. Vrindavan Patil, Priti
Rita i/b. Karmarkar & Associates for the Applicant.
Mr. C.D. Mali, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 03rd MAY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.311/2024 registered at Dahisar Police Station, Mumbai on 26.3.2024 under sections 326, 324, 323, 506, 504 read with 34 of IPC.

2. Heard Dr. Samarth Karmarkar, learned counsel for the Applicant and Mr. C.D. Mali, learned APP for the Respondent-State.

3. The FIR is lodged by one Kunal Tusham. He has stated that on 25.3.2024 at about 3.30 p.m. the informant and his friends were traveling on their two-wheeler. One Shiv

Dhaka was his friend and was on the motor-cycle ahead of the informant. At that time, there was some incident where another motorcycle had cut the lane and rammed into the motorcycle of Shiv. There was quarrel and altercation. The informant and other friends intervened. It is alleged that one of them assaulted the informant with a metal ring. One person with curly hair assaulted Shiv with some hard substance on his nose , head etc.. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that it was a petty incident and no serious injury is caused. The offence under Section 326 of IPC is not made out. His custodial interrogation is not necessary.

5. Learned APP produced the investigation papers and the medical certificate. He opposed these submissions.

6. I have considered these submissions. The statement of the first informant is supported by his friend Karan Pawar and the injured Shiv. Therefore, it is clear that the incident had occurred. The question is whether the

offence under Section 326 of IPC is made out or whether there is exaggeration. The injury certificate shows that the informant had suffered some injury on head but there was no serious injury on head. There was not an external injury except soft tissue swelling. It is not described as grievous injury. The injured Shiv has suffered displaced fracture of nasal bone, therefore, it could be termed as grievous injury. The FIR has not given description of any weapon which could have caused that injury except saying that he was assaulted with hard substance. Shiv himself stated that the Applicant had assaulted him with iron ring. However, there is only small abrasion on the nose i.e. 0.5 cm and there is fracture of the nasal bone. Therefore, it is a possibility that the said injury could have been caused with the fist blows.

7. At this stage, it is doubtful whether Section 326 of IPC is attracted. The description in the FIR and in the statements of the eye witnesses appear to be exaggerated. In this view of the matter, the custodial interrogation of the

Applicant is not necessary. He can be protected under Section 438 of Cr.P.C.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.311/2024 registered at Dahisar Police Station, Mumbai, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

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