

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

ANTICIPATORY BAIL APPLICATION NO. 3655 OF 2023

1. Himmatrao Anandrao Deshmukh	
2. Mansing Anandrao Deshmukh	..Applicants
Versus	
The State of Maharashtra	..Respondent

Mr. Aniket Nikam i/b. Amit Icham for Applicants.
Ms. Pallavi N. Dabholkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 11 JANUARY 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.141 of 2023 registered at Kadegaon Police Station, Sangli, on 27.08.2023, under sections 143, 147, 148, 149, 337, 324, 323 and 504 of the Indian Penal Code and U/s.4 and 25 of the Arms Act, 1959.

2. Heard Mr. Aniket Nikam, learned counsel for the applicant and Ms. Pallavi Dabholkar, learned APP for the State.

3. The F.I.R. is lodged by one Sandip Mohite. He has stated that, on 23.08.2023, at about 1.00p.m. one Vyankatrao

Deshmukh had abused, threatened and assaulted him with kicks and fist blows. At about 8.30p.m. one Prakash Mohite called the first informant Sandeep to the house of Ramchandra Mohite for settling the matter. Therefore, the first informant along with his cousin Sanjay Mohite and others went to the house of Ramchandra. At that time, both the applicants and others were present there. When the informant was discussing about the afternoon's incident, the members of the applicants' group started assaulting the informant's group. As far as the present applicants are concerned, it is mentioned that the applicant Himmatrao assaulted Sanjay Mohite on his hand with sword. The applicant Mansing assaulted Yashodeep Mohite on his hands with sword. These are the allegations against the present applicants. There are allegations against the other accused. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that, their group had lodged an F.I.R. against Sandeep's group. The said F.I.R. is lodged vide C.R.No.142 of 2023 at the same police station on the same date for various offences. The main offence was the

offence punishable U/s.324 of the I.P.C. Subsequently, Section 326 of the I.P.C. was also added. Even in the present F.I.R. lodged vide C.R.No.141 of 2023, Section 326 of the I.P.C. is subsequently added.

5. Learned counsel further submitted that the cross F.I.R. is lodged by Rahul Mahadik in respect of the assault committed by the informant's group. In that incident, Rahul himself and the present applicant Himmatrao had suffered serious injuries. All these facts are suppressed in the F.I.R. lodged against the applicant. He submitted that the informant Sandip's group was aggressor as that group had come to the house of the applicants' group. Therefore, in these circumstances, the applicants are falsely implicated. Learned APP produced the injury certificates.

6. I have considered these submissions. As far as the present applicants are concerned, they had suffered injuries which is the subject matter of cross F.I.R. lodged by Rahul. The applicant No.1 had suffered CLW on his right hand. It was described as grievous injury caused with a sharp weapon. Vikram had suffered

one grievous injury above his right eye. The first informant Rahul in the cross F.I.R. lodged on behalf of the applicants' group had suffered CLW on his chest causing rib fracture. It is described as grievous injury. On the other hand, from the informant Sandeep's group, one Sanjay had suffered grievous injury on his left palm attributed to the applicant Himmatrao. The others from his group had not suffered any grievous injury. The injury suffered by Sanjay was CLW on his left palm. It was of the size 6cm x 2cm x 1cm.

7. Thus, it can be seen that the applicant himself and Rahul from his group have suffered grievous injuries. Those injuries are not explained by the first informant Sandip in the present case. There is only one grievous injury caused in the incident to the informant Sandip's group. Therefore, taking over all view of the matter, it is clear that the first informant Sandip has not narrated the incident truthfully. The applicant No.1 himself has suffered grievous injury. Therefore, in these circumstances, the custodial interrogation and arrest of the applicants would not be just and fair. They deserve protection of an order U/s.438 of the Cr.p.c.

8. Hence, the following order :

ORDER

- i) In the event of their arrest in connection with C.R.No.141 of 2023 registered at Kadegaon Police Station, Sangli, 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 co-operate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)