

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

ANTICIPATORY BAIL APPLICATION NO. 1290 OF 2024

Ubej Khan @ Avesh Khan & Ors.	...	Applicants
Versus		
State of Maharashtra	...	Respondent

Mr. Keshav Chavan for the Applicants.
Mr. Mayur S. Sonavane, APP for Respondent-State.
Mr. Ajay Chavan, API, Kalamboli Police Station, Navi Mumbai.

CORAM: MANISH PITALE, J.
DATE : 12th JUNE 2024

P.C. :

1. By this application, the applicants, who are three out of the four accused persons have approached this Court for Anticipatory Bail, as they apprehend arrest in connection with FIR No. 0103 of 2024 dated 6th April 2024, registered at Kalamboli Police Station, Dist. Navi Mumbai.

2. As per the statement of the victim, which led to registration of the FIR, the incident took place on 4th April 2024 in the backdrop of a dispute of the accused with a friend of the victim in respect of parking space in the premises of the building, wherein the parties are residing. It is the case of the victim that the accused persons assaulted him and others, resulting in serious injuries. On the basis of the aforesaid statement, offences were registered against the accused persons under Sections 324, 326, 504 and 506

read with 34 of the Indian Penal Code (IPC). The statements of the other injured persons were also recorded during the course of investigation.

3. The application for anticipatory bail filed before the Sessions Court was dismissed by an order dated 23rd April 2024, wherein the Court of Additional Sessions Judge, Panvel-Raigad, took into consideration the extent of injury suffered by the victim and found that *prima facie* case did exist against the co-accused persons, including the applicants before this Court.

4. The learned counsel for the applicants read the statement, which led to registration of the FIR. He submitted that although the alleged incident is said to have taken place on 4th April 2024, the FIR was delayed and it was registered after two days on 6th April 2024. It was submitted that there was hardly any material to indicate the injuries that the victims claimed to have suffered. It was further submitted that in any case, the allegations as regards use of iron rod was only against the applicant No.1 and the allegation against the applicant Nos. 2 and 3 was that they had assaulted by fists.

5. On this basis, it was submitted that since the applicants are ready to cooperate with the investigation and the dispute arose out of a petty matter, this Court may consider allowing the present application.

6. On the other hand, the learned APP tendered copies of statements of the informant as well as the other injured victims in the incident in question. He also referred to the medical examination report of the injured victim/informant, emphasizing that the victim had suffered fracture due to the brutal assault and there were also injuries suffered on the head, ear and other parts of the body. It was submitted that the presence of all the four accused persons, including the applicants, was sufficiently established on the basis of the aforesaid statements and since the accused persons are also residents of the same building, it would not be appropriate to grant anticipatory bail in the facts of the present case.

7. This Court has considered the material on record, as also the statements of the injured victims brought to the notice of this Court. In the statement of the victim/informant, leading to registration of the FIR, the presence of all the four accused persons, including the applicants is specifically stated. It is also stated that while the applicant No.1 assaulted the informant by means of an iron rod, applicant Nos.2 and 3 joined him by assaulting the victim by fists and kicks. The participation of the applicant Nos. 2 and 3 along with applicant No.1 is *prima facie* made out. The nature of injuries suffered by the victims as a result of the said assault, indicate the intensity with which they were assaulted. Much is sought to be made out on behalf of the applicants as regards the delay in registration of the FIR. At this

stage, this Court is of the opinion that, since the informant and the other victims suffered injuries, it cannot be said that merely because the FIR was eventually registered on 6th April 2024, it could be said to be fatal to the case of the victims.

8. The genesis of the incident appears to be a dispute pertaining to parking space in the building in question pertaining to a friend of the informant. It is not even the case of the applicants that such a dispute led to a scuffle wherein both parties were injured. This does indicate that the applicants were the aggressors who carried out the aforesaid assault on the victims. The Sessions Court has correctly taken into consideration the extent of injuries, as also the parts of the bodies of the victims, wherein they had suffered such injuries, including a fracture. No case is made out for granting anticipatory bail.

9. In view of the above, the application is dismissed.

MANISH PITALE, J.