

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

**ANTICIPATORY BAIL APPLICATION NO. 3556 OF 2023
WITH
INTERIM APPLICATION NO. 1330 OF 2024**

Gavin Thomas Koli ...Applicant

Versus

State of Maharashtra ...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 3558 OF 2023
WITH
INTERIM APPLICATION NO. 1328 OF 2024**

Veena Joseph Koli ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Tushar Nirbhavne, for the Applicant in both ABA.
Mr. Sameer Nangare, for the Intervener in both IA.
Mr. A. A. Naik, APP for the State in both ABA.
PSI Mr. Sunil Kshirsagar, Severe Police Station, present.

CORAM: N. J. JAMADAR, J.

DATED : 2nd JULY, 2024

PC:-

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with CR No.232 of 2023, registered with Sewri Police Station, Mumbai, for the offences punishable under Sections 143, 148 , 149, 307 and 504 of Indian Penal Code, 1860 ("the Penal Code") and Sections 37(3) read with Section 135 of the Maharashtra Police Act, 1951.

3. On 19th December, 2023 this Court had granted interim bail opining *inter alia* that in respect of one and the same occurrence, two versions were reported and the role of assault to the first informant and injured Nariman, was attributed to the co-accused.

4. The learned Counsel for the applicants submits that rest of the co-accused in CR No.232 of 2023 as well as CR No.398 of 2023, lodged by the applicant Gavin against the members of the informant party, have all been released on bail. Post completion of investigation, charge-sheet has been lodged and the case has been committed to the Court of Session.

5. The learned APP, on instructions, submits that pursuant to the order dated 19th December, 2023 the applicants have appeared before the investigating officer and cooperated with the investigation and post completion of investigation, charge-sheet has been lodged.

6. The learned Counsel for the first informant, however, resisted the prayer for pre-arrest bail. It was submitted that there are a number of eye witnesses who have attributed specific roles to the applicants as well as the co-accused. Attention of the Court was invited to the statements of Soyul Shengle, who has stated that the applicants alongwith the co-accused, Steven

Koli were armed with hockey sticks and they were giving blows to Nariman.

7. While granting interim bail, this Court had observed, *inter alia*, as under:

“8. Prima facie, it appears that in respect of one and the same occurrence, two versions have been reported. The first informant and injured have sustained head injuries. Likewise, the applicant Gavin also sustained fracture. It appears that on account of a prior dispute, the parties virtually had a free fight. In a case of this nature, the question as to which of the party was aggressor would arise for consideration.

9. Moreover, the role of assault by means of bamboo on the first informant is attributed to co-accused Vikas Koli and role of assault by means of bamboo on the head of Nariman is attributed to Rupesh Koli. In the circumstances, I am inclined to grant interim protection while directing the applicants to join in the investigation.”

8. It appears that the initial role of assault by means of bamboo stick on the first informant has been attributed to co-accused Vikas Koli and that of assault on the head of Nariman has been attributed to Rupesh Koli. There is indeed an allegation that the applicant Gavin was armed with a hockey stick.

9. Yet, at this stage, the fact that it was a case of a virtual free fight between two groups cannot be lost sight of. Members of both the groups appeared to have sustained injuries in the said occurrence. Moreover, the investigation seems to complete for all intent and purpose. At this length of time, the custodial

interrogation of the applicants does not seem warranted. I am, therefore, impelled to make the order of interim bail absolute.

10. Hence, the following order:

: O R D E R :

- (i) Order of interim bail dated 19th December, 2023 is made absolute on the terms and conditions incorporated therein.
- (ii) The applicants shall henceforth appear before the Investigating Officer as and when directed.
- (iii) The applicants shall regularly attend the proceedings before the jurisdictional court.
- (iv) Anticipatory Bail Applications stand disposed.
- (v) In view of disposal of the ABAs, interim applications also stand disposed

[N. J. JAMADAR, J.]