

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

ANTICIPATORY BAIL APPLICATION NO. 1862 OF 2018

Asif Yasin Mohammed Behlim

... Applicant

Vs.

State of Maharashtra

... Respondent

...

Ms. Priyanka I. Chhabira I/by Mr. Sandeep D. Shakhare for the applicant.

Mr. Y.M. Nakhwa, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 11th SEPTEMBER, 2018.

P.C.

1. This is an application for anticipatory bail in connection with CR No. 344 of 2018 registered with Khar Police Station.
2. The case of the prosecution is that on 26th August, 2018 the accused had as usual visited the club. Informant was attending the applicant. He had consumed alcohol. He told the informant to send the waiter to him. The first informant serving drink to other customers. Accused then approached the informant and patted his back forcefully and started abusing in filthy language and also hit by fist and kick blows. He also threatened the informant and others. While leaving the club, he removed some article

resembling weapon like knife from his pocket and threatened informant and other persons in the club that they will be killed and the club will be closed. In pursuant to that FIR was registered for the offence under Section 506 II, 323, 504 vide CR No. 344 of 2018 with Khar Police Station.

3. The offence under Section 323 and 504 of Indian Penal Code are bailable offence in nature. The offence under Section 506 II of Indian Penal Code is determined to be non-bailable offence on account of circular issued by the State of Maharashtra. Learned advocate for the applicant submitted that the applicant is a regular customer of the club where the alleged incident has occurred. The parties have put to end their dispute and the letter has been addressed by the complainant to the Senior Police Officer Khar Police Station. that they have resolved their misunderstanding.

4. Learned APP submitted that overt act has been attributed to the applicant having threatening the informant and others with the aid of article resembling like knife. Similar offence is registered against the applicant at Santacruz vide CR No. 292 of 2014 under Sections 506, 504 read with 34 of Indian Penal Code. It is therefore submitted that the applicant is not entitled for grant anticipatory bail.

5. I have perused the first information report which refers to alleged abuses hurled by the applicant to the informant and others. The offence under Section 323, 504 of Indian Penal Code are bailable in nature. The complainant has forwarded the letter to the Senior Inspector of Police that the misunderstanding is cleared, informant and applicant have good relationship and the informant is not interested in pursuing the first informant report.

6. It is true that the applicant is involved in another case which is pending against him. However considering the aforesaid circumstances, the custodial interrogation of the applicant is not necessary and relief under Section 438 of Code of Criminal Procedure can be granted to him on certain conditions.

ORDER

- i) Anticipatory Bail Application No. 1862 of 2018 is allowed;
- ii) In the event of arrest of the applicant in connection with CR No. 344 of 2018 registered with Khar Police Station, the applicant be released on bail on furnishing PR bond of Rs. 20,000/- (Rs. Twenty Thousand) with one or more sureties in the like amount;
- iii) The applicant shall attend Khar Police Station for a period of one week from 17th September, 2018 between 10.00 a.m. and 12 noon and thereafter as and when called for;

- iv) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses;
- v) Application stands disposed off.

Sachidanand
Kuttan Nair

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signed by
Sachidanand
Kuttan Nair
Date:
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(PRAKASH D. NAIK, J.)