

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.258 OF 2019

Mr.Mangesh Namdev Pokla

...Applicant

Versus

State of Maharashtra

...Respondent

Mr.Vinayak Patil for the applicant.

Mr.Prashant Jadhav, APP for the respondent – State.

Mr.N.B. Kadap, PSI, Raghupur Police Station present.

CORAM : PRAKASH D. NAIK, J.

DATE : 1st FEBRUARY 2019

P.C. :

1. This is an application for anticipatory bail in connection with CR No.512 of 2018 registered with Shahapur Police Station, Gramin Thane, for offences punishable under Sections 323, 332, 427 and 504 of Indian Penal Code, 1860.

2. The FIR was lodged on 31st October 2018. It is alleged that the complainant is S.T. driver. While driving the bus through Mumbai Agra High Way, when the bus has reached at Asangaon at about 5.00 pm on 31st October 2018, two persons who were driving motorcycle had intercepted the complainant and questioned him about his

driving. The complainant tried to give explanation which was not liked by them. The said persons then assaulted the complainant and also caused damages to the bus by breaking the front glass of the bus with the pipe which was lying on the road. In pursuant to lodging of FIR, accused Manoj Mhaskar was arrested on 16th November 2018. He was produced before the concerned Court for remand on 17th November 2018. He was remanded to custody.

3. The case of the prosecution is that during the course of interrogation the said accused had disclosed the involvement of the applicant as a person who has participated in the crime and has caused damages to the bus. However, it was not clear as to how Manoj Mhaskar was arrested. Learned APP on instructions submitted that the complainant and the other witnesses have not identified Mangesh as an accused involved in the crime. However, the prosecution relied upon the alleged statement made by Manoj in respect of the involvement of the applicant. It is also pertinent to note that the supplementary statement of the complainant was recorded on 18th December 2018. In the said statement, it is stated that name of Mangesh was disclosed by police. Statement, however, does not indicate as to what was the cause for making such a

statement and whether the identity of the applicant was disclosed to the complainant.

3. Taking into consideration, the aforesaid circumstances, the case for custodial interrogation is not made out.

4. Learned APP submitted that there is one antecedent against the present applicant and he is the person who has caused damage to the bus. Involvement of the applicant is under shadow of doubt and in the circumstances case for grant of relief under Section 438 of Cr.P.C. is made out.

5. Hence, I pass following order;

ORDER

- (i) Anticipatory Bail Application No.258 of 2019 is allowed.
- (ii) In the event of arrest of applicant in connection with CR No.512 of 2018 registered with Shahapur Police Station, Gramin Thane, applicant be released on bail on his furnishing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount.
- (iii) The applicant shall attend Investigating Officer on

11.02.2019, 12.02.2019 and 13.02.2019 between
11.00 am to 1.00 p.m.

- (iv) It is clarified that observations in this order are only for considering the application for anticipatory bail, and the trial Court shall not be influenced by the same during trial;
- (v) Anticipatory Bail Application stands disposed off.

[PRAKASH D. NAIK, J.]