

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

ANTICIPATORY BAIL APPLICATION NO.815 OF 2021

Mohammed Quaid Shamim Nashikkar	.. Applicant
<i>Versus</i>	
State of Maharashtra	.. Respondent

.....

Ms.Mayuri Karekar, Advocate for the Applicant.

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

API Swati Tukaram Kandalkar, Bajarpeth Police Station, Kalyan,
District-Thane, present.

.....

CORAM : PRAKASH D. NAIK, J.

DATED : MARCH 25, 2021.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.I-42 of 2021, registered with Bazarpath Police Station, Kalyan, District-Thane, for the offences punishable under Sections 354, 323, 504 and 506 of Indian Penal Code (“IPC”, for short). First Information Report (“FIR”, for short) was lodged on 20th February, 2021. The complainant has alleged that she is residing at Shamim Nashikkar building along with other family members since last nine years. Her father has obtained the flat in the said building on Pagdi basis from one Ibrahim.

The building is owned by Shamim Nashikkar. On 20th February, 2021, sons of the owner of the building, namely, Shahid Nashikkar and Quaid Nashikkar (applicant) had visited the building. They went on the terrace of the building and started demolishing the shed by drill machine on the terrace. Quaid Nashikkar (applicant) abused her by threatening that he would see how she is not vacating the room and that the building would be demolished. He also threatened complainant's mother that she would be thrown down from the building. He pushed complainant's mother. She fell on the terrace. He also pushed the complainant by touching her chest. During the scuffle, her gown was torn.

2 Learned advocate for the applicant submitted that the FIR is lodged to falsely implicate the applicant in the crime. Father of the applicant is the owner of the said building. The building is in a dilapidated condition. Structural report was obtained. Applicant relies on photographs with regards to the condition of the building.

3 The applicant has produced letter of Kalyan Dombivali Municipal Corporation dated 27th February, 2021,

which refers to the fact that the building is in a dangerous condition. The said letter was written in response to the letter dated 18th February, 2021, written by Shamim Nashikkar.

4 Learned APP submitted that there is no reason to file a false complaint against the applicant. Pursuant to the registration of FIR, N.C. complaint was lodged against the applicant by the complainant. The punchanama supports the prosecution case. Specific role has been attributed to the applicant.

5 From the documents on record, it appears that the father of the applicant is owner of the building. From the nature of threats issued to the complainant, it appears that the applicant wanted that the complainant should vacate the premises. The building was apparently in a dilapidated condition. There appears to be dispute between both the parties. During the scuffle, complainant's gown was torn. Possibility of false implication cannot be ruled out.

6 Considering the factual aspects of the case, the applicant need not be subjected to custodial interrogation.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application No.815 of 2021, is allowed;
- (ii) In the event of arrest of the applicant in connection with C.R.No.I-42 of 2021, registered with Bazarpeth Police Station, Kalyan, District-Thane the applicant be released on bail on executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall report the investigating officer on 5th, 6th and 7th April, 2021, between 11:00 a.m. to 01:00 p.m.;
- (iv) Applicant shall not tamper with the prosecution evidence;
- (v) Anticipatory Bail Application No.815 of 2021, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)