

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

ANTICIPATORY BAIL APPLICATION NO. 1761 OF 2021

Rizwan Mushtaq Khan Applicant

Versus

The State of Maharashtra Respondent

Mr. Tariq Khan, for the applicant.

Mr. Ajay Patil, APP for the State/Respondent.

**CORAM: SARANG V. KOTWAL, J.
DATE : 3rd AUGUST 2021**

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 174 of 2021, dated 14/05/2021, registered at Versova Police Station, Mumbai, under sections 452, 354, 509, 323, 324, 326, 427 of the Indian Penal Code.

2. Heard Mr. Tariq Khan, learned counsel for the applicant and Mr. Ajay Patil, learned APP for the State.

3. The FIR is lodged by the victim herself. She has stated that a quarrel started on 13/05/2021 at about 9.15

p.m., between one Afsana and the informant. Afsana was Pir Mohammed Shaikh's wife. There was some quarrel between Afsana and the informant's daughter. It is alleged that Afsana started abusing in filthy language. Therefore, the informant slapped her. There was scuffle between the informant and Afsana. At that time, Afsana's husband Pir Mohammed Shaikh came outside his house. He was wearing only short pant. He was followed by the present applicant and one Shakib. The applicant was brother-in-law of Pir Mohammed Shaikh. It is alleged that all these accused then entered the informant's house. Pir Mohammed Shaikh tore the clothes of the informant and started beating her. The allegations against the applicant are that he gave blows with stick to the informant's son and nephew. They had suffered injuries. The accused persons caused damaged to the house of the informant and then this FIR was lodged.

4. Learned Counsel for the applicant submitted that there is a counter FIR lodged by Afsana on

15/05/2021 at the same police station vide C.R. No. 178 of 2021. He submitted that the correct facts are mentioned in Afsana's FIR. In the incident Afsana and her daughter were abused and assaulted. He submitted that the applicant has not committed any offence under section 354 of the Indian Penal Code. There are no grievous injuries caused by the applicant. Therefore, his custodial interrogation is not necessary.

5. Learned APP opposed this application by relying on the allegations made in the FIR. However, on instructions, he made a statement that the injuries suffered by the informant's group were simple in nature.

6. I have considered these submissions. The allegation of outraging modesty are specifically directed against Pir Mohammed Shaikh. It is not alleged that the applicant was sharing any common intention in committing the offence under Section 354 of the Indian Penal Code. The allegations against the applicant are

that he assaulted two persons with wooden stick. Learned APP has conceded that those injuries were simple injuries. There is a counter FIR lodged by the applicant's family member. In this view of the matter, custodial interrogation of the applicant is not necessary. He can be protected by an order of anticipatory bail.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R. No. 174 of 2021 registered with Versova Police Station, Mumbai, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police station as and when called and shall co-operate with the investigation.
- (iii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)