

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

ANTICIPATORY BAIL APPLICATION NO. 83 OF 2022

Mustaque Nihal Khan & Anr.	 Applicants
Versus	
The State of Maharashtra	 Respondent

Mr. Shambhu Jha i/b. Jitendra P. Jha for Applicant.
Smt. A. A. Takalkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 12th JANUARY, 2022
(through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 408 of 2021 registered at Mira road Police Station, on 28/11/2021, under sections 354, 504 and 506 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Shambhu Jha, learned counsel for the applicant and Smt. Takalkar, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by the victim herself. She is 20 years of age. She has stated that, her brother had fallen prey to addiction to drugs. The

informant's family was trying to help him to come out of his addiction. She came to know that the applicant No.1 was inducing her brother for drug consumption. The informant told her brother to stay away from the applicant No.1, but the applicant No.1 himself used to contact informant's brother frequently. On one such occasion, the informant received a phone call from him. She told the applicant No.1 not to keep in touch with her brother. She along with her friend went to the area where the applicant No.1 was residing. The F.I.R. goes on to mention that when the informant and her friend went there, both the applicants assaulted her with kicks and fist blows. The informant's friend was also assaulted. The applicant No.2 came there with a *bamboo* and assaulted the informant. The informant was pleading that they should let them go, but the assault continued. The F.I.R. goes on to mention that, both the applicants touched the informant inappropriately amounting to offence U/s.354 of IPC. Somehow, the informant got herself rescued. She and her friend were in physical discomfort, therefore, they went to Government hospital. They were advised to go to police. But on that particular day she

was not in a position to go to police station. She went there on the next day and then this F.I.R. is lodged.

4. Learned counsel for the applicants submitted that the applicant No.1 is 18 years of age and his arrest would affect his future adversely. He submitted that, there is unexplained delay of 2 days in lodging of F.I.R. He submitted that, except section 354 of IPC, all the other offences are bailable.

5. Learned APP opposed this application. She relied on the investigation carried out so far. She relied on the medical certificate, as well as, statements of eye witnesses Raja Ansari and Yasmin Ansari.

6. I have considered these submissions and perused the investigation papers. The medical papers show that the informant was brutally assaulted. She had suffered as many as 15 injuries. It is more than clear from the photographs and medical certificate that the informant was brutally and mercilessly beaten by the applicants. The informant was trying to cure her brother of his addiction and she had to suffer this assault at the hands of both the applicants. Apart from this, there are clear allegations of

commission of offence U/s.354 of IPC. The eye witnesses have corroborated informant's version. In this view of the matter, leniency cannot be shown to the applicants. The offence is serious. Custodial interrogation of the applicants is necessary.

7. The application is rejected.

(SARANG V. KOTWAL, J.)