

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

ANTICIPATORY BAIL APPLICATION NO. 90 OF 2022

Husain Sayed Ahmed Taqvi	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Nushrat Shah a/w. Francis A. Carzo i/b. M/s. K. H. Associates
for Applicant.

Ms. S. S. Kaushik, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 14th JANUARY, 2022
(through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 764 of 2021 registered at Oshiwara Police Station, Mumbai, on 02.11.2021, under sections 326, 323, 504 and 506 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Nushrat Shah, learned counsel for the applicant and Ms. Kaushik, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by the wife of the applicant. She has stated that, she had got married with the applicant in the year 1994. They have a son

Gokhale

who was born in the year 1997. At present he is in New Zealand. The F.I.R. mentions that, the informant was residing in the flat which stood in the name of the present applicant. Because of the quarrel, the informant was driven out of that house and she started residing with her mother. Seven months prior to the incident, the flat was given to a tenant on rent. The informant came to know that the applicant was about to sell that flat. She lodged her objection with the society. The tenant vacated that flat and since 01.11.2021 the informant started residing in that flat. On that day, suddenly the police officer of Oshiwara police station came there. They told her that, there was a complaint against her. She went to the police station. When the informant and the applicant were returning back, the informant came to know that the applicant had rushed to the flat and had replaced the lock. There was quarrel between the informant and the applicant. The applicant took a wooden stick lying there and gave a blow on her left hand causing injury to her middle finger. The applicant then ran away from the spot. On the next day, the informant lodged her F.I.R.

4. Learned counsel for the applicant submitted that the F.I.R. is a result of dispute between the husband and wife. The applicant had no intention to cause serious injury to the informant. The allegations are exaggerated. It can be seen that there was dispute regarding that flat and, therefore, this false case is lodged against the applicant. The applicant himself had lodged an N.C. complaint with the police station and, therefore, the informant was called to the police station.

5. Learned APP opposed this application and produced medical papers before me, which shows that there was fracture of the middle finger of the informant.

6. I have considered these submissions. First of all, it is quite clear that, there is a dispute between the husband and wife regarding that particular flat. The applicant himself had given an N.C. complaint with the police station in connection of which the informant was called to the police station. While returning back from the police station this incident had taken place. Narration of the incident shows that, initially a quarrel was started and during that quarrel the applicant picked up a wooden stick lying nearby

and gave a blow on informant's hand causing this injury. However, there is scope to believe that, there was no premeditation and hence, there may not be intention to cause grievous injury as defined under Section 320 of IPC. However, this will have to be tested during trial. Considering the backdrop of this case, at this stage, custodial interrogation of the applicant is not necessary for conducting investigation in this case. 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. 764 of 2021 registered at Oshiwara Police Station, Mumbai, the applicant is directed to be released on bail on his furnishing P R. 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 cooperate with the investigation.

(SARANG V. KOTWAL, J.)