

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

ANTICIPATORY BAIL APPLICATION NO. 341 OF 2022

Arbaz Naushad Khan

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Murtuza Nazmi i/b. Vaishnavi C. Vartak a/w. Pranali Chordiya
for Applicant.

Mr. P. H. Gaikwad, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 18th FEBRUARY 2022

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 252 of 2021 registered at APMC Police Station, Navi Mumbai, on 14/07/2021, under sections 323, 326, 397, 143, 147, 148, 149 of the Indian Penal Code (for short 'IPC').

2. The applicant had earlier approached this court for the same relief. His earlier application i.e. A.B.A.No. 2825 of 2021 was dismissed for non prosecution vide order dated 13/01/2022. In the interest of justice, to give him a chance by way of indulgence I have entertained this application and I have heard the parties.

3. Heard Mr. Murtuza Nazmi, learned counsel for the applicant and Mr. Gaikwad, learned APP for the State.

4. The First Information Report (for short 'F.I.R.') is lodged by one Faiz Khan. He has stated that, he has a shop at APMC market, Navi Mumbai. He along with his cousin Shahabaz Khan were selling fruits in that shop.

5. On 13/07/2011 he attended his shop as usual. They conducted their business for the whole day and at 6.20p.m. by taking an amount of Rs.4,70,000/-, which was collected during the day, they started going back home on their two wheeler. While they reached near Kopri bridge, the applicant No.1 stopped them. He was holding a *bamboo* in his hand. The F.I.R. mentions that, because of previous quarrel he gave a blow with *bamboo* on Shahabaz's face. The informant and Shahabaz fell down. Another accused Aftab started chasing them. Other accused Naushad and two unknown persons also joined other accused. One of them was carrying iron rod. The applicant threw away *bamboo* and removed a knife and gave a blow with knife on Shahabaz's head. The other accused assaulted them. It is alleged that, the applicant snatched

the bag containing money from Shahabaz and then all of them went away. The informant took Shahabaz to the police station. Then he was taken to PKC hospital, Vashi and then this F.I.R. was lodged.

6. Learned counsel for the applicant submitted that the applicant and other named accused are cousins of the informant and the injured Shahabaz. This fact is not mentioned in the F.I.R. The applicant also has same business in the same market in front of the shop of the informant. This fact is also not mentioned in the F.I.R. The applicant also deposits similar amount in his bank account, therefore, he did not need to snatch any money from the informant or victim. He submitted that the co-ordinate bench of this court while granting bail to Aftab and Shahwez had observed that they were falsely implicated. There are antecedents against the victim Shahabaz and therefore, anticipatory bail should be granted to the applicant.

7. Learned APP opposed this application and produced investigation papers before me.

8. I have considered these submissions. I have perused

the investigation papers. The injury certificate shows that the victim Shahabaz had suffered fractures of fingers of both hands. There was a crush injury to his right index finger. In addition, there are four CLWs over scalp measuring 5cm to 10cm. All these injuries are in consonance with the informant's case. The statement of victim Shahabaz is recorded U/s.164 of Cr.p.c. He has specifically named the present applicant and has attributed specific role to him supporting the story of the informant. The victim reiterated in his statement U/s.164 of Cr.p.c. that in this incident he had lost Rs.4,70,000/-. The offence is serious. The antecedents against the victim will not matter. The incident has to be seen independently in this case. There is sufficient material against the applicant. His custodial interrogation is necessary. No case for grant of anticipatory bail is made out.

9. The application is rejected.

(SARANG V. KOTWAL, J.)