

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

ANTICIPATORY BAIL APPLICATION NO.435 OF 2022

Jitendra Shambhunath Jha Applicant
versus
State of Maharashtra Respondent

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- Mr.Umesh S. Borade, Advocate for Applicant.
- Ms. Sharmila S. Kaushik, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 22nd FEBRUARY, 2022

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.362/2021, dated 17/10/2021, registered with Kalwa Police Station, Thane, under sections 143, 147, 148, 149, 307, 354, 323, 504, of the Indian Penal Code.
2. Heard Mr.Umesh S. Borade, learned counsel for the Applicant and Ms. Sharmila S. Kaushik, learned APP for the State.
3. The FIR is lodged by one Rashida Naim Khan. She has stated that her brother Anwar Khan had dispute with the main accused Arshad Ali, in respect of a room. Both of them were

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claiming ownership of that room. Therefore on 16/10/2021 at about 07.00 p.m. a local resident Afzal Chaudhari called the informant's brother for discussion. The informant and her brother went to Arshad's house. At that time, the Applicant was also present along with others. During the meeting Afzal suggested that the informant and his brother should take Rs.2 lakhs and settle the matter. Both of them refused and the incident turned into a quarrel. There are allegations that Akbar held the informant from behind and Afzal gave a blow of sharp weapon on her head from the backside causing grievous injury. There are allegations that the Applicant touched her inappropriately and outraged her modesty. The FIR mentions that the informant somehow escaped from there and went to the police station. She was sent for treatment and on the next day FIR is lodged.

4. Learned counsel for the Applicant submitted that the incident is not true. The Applicant is falsely implicated because he was taking Arshad's side. He further submitted that the

charge-sheet is already filed against the other accused and therefore his custodial interrogation is not necessary.

5. Learned APP relied on the statements in the charge-sheet and particularly on the injury certificate.

6. I have considered these submissions. The injury certificate shows that the informant had suffered one CLW and two abrasions. All these injuries were described as non-grievous. In any case the Applicant is not attributed role of causing either of these injuries. The enmity was between the informant's brother and Arshad. The Applicant has nothing to do with their internal dispute. Important aspect in this case is the supplementary statement of the informant. She has stated that the quarrel had taken place in the office. One Sagina came there and took Anwar with her. The informant remained there. She came in the lane. The main incident happened there. She has stated that somebody held her from behind. Afzal gave a blow. During the incident, she became unconscious and fell down. This story is slightly different from the FIR. Importantly the

informant has not attributed any role to the present Applicant in her supplementary statement. In fact, in the supplementary statement she has stated that after the blow was given, she became unconscious and there are no allegations against the present Applicant of outraging her modesty. Thus, the material against the present Applicant is vague and in that situation, the 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.362/2021, dated 17/10/2021, registered with Kalwa Police Station, Thane, 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) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)