

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1481 OF 2022**

Mohd.Aijaz Mohd. Shehzad Shaikh .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.S.A.Shaikh for the Applicant.

Mr.A.A.Palkar, A.P.P. for the State/Respondent.

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CORAM: BHARATI DANGRE, J.

DATED : 07th JUNE, 2022

P.C:-

1. The applicant is apprehending his arrest in C.R.No.429 of 2021 registered with Shivaji Nagar Police Station, invoking Sections 307, 323, 324, 326, 504, 506 read with Section 34 of the I.P.C. and Section 37(1)(A) and 135 of the Maharashtra Police Act.

2. Heard the learned counsel for the applicant and the learned A.P.P.

The counsel for the applicant would submit that the applicant is a student, aged 24 years and he has been

implicated in the said C.R. at a subsequent stage when the complainant, after 3 days, got his supplementary statement recorded and he was attributed some role. The submission advanced on behalf of the applicant is to the effect that the original complaint lodged on 16/05/2021 against the four accused persons on account of previous rivalry due to the complainant having some pets and the accused persons raising an objection about the nuisance created by them.

3. On perusal of the complaint filed on 16/05/2021, it can be seen that the complainant has alleged that the old discord between the complainant and the accused persons lead to an incident dated 15/05/2021 at around 23.50 hrs. It is alleged that at the relevant time, accused-Imran, Rahim, Asif and Rehman assaulted the complainant and he was stabbed in his stomach and back by accused Imran by means of sword, causing a bleeding injury. The complainant report that at the same time, co-accused-Rahim hit him with bamboo and Asif and Rehman assaulted him by means of fist and blows. His friend, who intercepted, was also assaulted is the version in the complaint.

In the supplementary statement of the complainant recorded on 18/05/2021, the original incident is supplemented

by stating that at the relevant time, when he was being assaulted by the accused persons, one relative of Imran by name Aijaz, the present applicant, was also present there and all of them assaulted him. As far as the present applicant is concerned, the complainant has specifically stated that he has assaulted him by means of fist and blows.

4. The medical certificate which is placed on record, refers to one grievous injury in form of stab wound in left hypochondrian, opined to be caused by knife (sharp). Another injury on the lower back is a simple injury of 1 X 1 X 0.5 cm.

The stab wound is attributed to a sharp weapon, which could be either knife or sword and the complainant himself has stated in the complaint that this injury was caused by Imran, who is already released on bail. It is also informed by the learned counsel for the applicant that on completion of investigation, the charge-sheet has been filed against the other accused persons.

In the wake of the above and the implication of the applicant is at the later point of time with a specific role attributed to him of assaulting the complainant by fist and blows, custodial interrogation of the applicant is not warranted in the offences punishable under Sections 307, 324

and 326 of the IPC and the applicant deserves protection in the event of his arrest. Hence the following order.

: ORDER :

- (a) Application is allowed.
- (b) In the event of arrest in connection with C.R.No.429 of 2021 registered with Shivaji Nagar Police Station, applicant-Mohd.Aijaz Mohd. Shehzad Shaikh shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall report to the concerned police station on every Wednesday and Friday between 3.00 p.m. to 5.00 p.m. for a period of two weeks and, thereafter, as and when directed.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(SMT. BHARATI DANGRE, J.)