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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2233 OF 2022

Shoeb Aminuddin Shaikh .. Applicant

Versus

The State of Maharashtra .. Respondent

...

Mr.Rakesh Agrawal for the Applicant.

Mr.S.H.Yadav, A.P.P. for the State/Respondent.

PSI Rasal attached to Kurla Police Station, present.

...

CORAM: BHARATI DANGRE, J.

DATED : 19th AUGUST, 2022

P.C:-

1. Learned counsel for the applicant would heavily rely upon an order passed in respect of co-accused Wasim Yusuf Shaikh on 17/06/2022 in the very same C.R. which invokes Sections 326, 452, 454, 380, 427, 323, 504, 506, 141, 143, 147 and 149 of IPC.

The submission is, the co-accused was released on bail by recording that the injury certificate of the complainant refers the injuries to be simple.

2. Learned A.P.P. would vehemently submit that subsequent to the said certificate, which was placed before this Court

dated 02/01/2021, another injury certificate dated 07/07/2022 issued by the Municipal Hospital, makes a reference to the fracture of wrist joint. In any case, going by the complainant's version, the applicant is alleged to have assaulted his son Arhan with his hands and is also alleged to have assaulted the complainant in a similar manner and have torn his clothes. He is not shown to be responsible for the injuries caused to the complainant as co-accused Nadeem is alleged to have assaulted him by an iron rod, resulting into fracture.

3. Learned Additional Sessions Judge accepted the said position by referring to the material brought before the Court through the prosecution, but expressed the opinion that the applicant and other members of the society have taken law in their hands and, therefore, the custodial interrogation is necessary.

In no way, the aforesaid observation made by the learned Judge can be concurred, as the purpose of custodial interrogation is for recovery of any weapon or any information exclusively within the knowledge of the applicant/accused person and it is not the duty of the Court to morally teach what is wrong and what is right. The role of the applicant

surfaced on record is merely beating the complainant and his son by hands and no injury is attributed him. In such circumstances, custodial interrogation of the applicant is not warranted. He deserves a similar treatment as the co-accused, who was granted protection by me, on 17/06/2022.

: ORDER :

- (a) Application is allowed.
- (b) In the event of arrest in connection with C.R.No.04 of 2022 registered with Kurla Police Station, applicant-Shoeb Aminuddin Shaikh shall be released on bail on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant shall report to the concerned police station on 29th and 30th August, 2022 and, thereafter, as and when called for.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.

(SMT. BHARATI DANGRE, J.)