

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2673 OF 2022**

Mohammad Sharif Abdul Karim .. Applicant
Shaikh

Versus

The State of Maharashtra .. Respondent

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Mr.S.K.Ali i/b A. A. Siddiquie Associates for the Applicant.

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

API S.R.Salunkhe, attached to Borivali Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 11th OCTOBER, 2022

P.C:-

1. The applicant is apprehending his arrest in C.R.No.289 of 2022 registered with Trombay Police Station on 23/06/2021, which invoke Sections 323, 326, 354, 504, 506(2) read with Section 34 of I.P.C. The subject C.R. was filed against three accused persons and charge-sheet has been filed against two of them, the applicant being shown as absconding.

2. On perusal of the charge-sheet, which is placed on record, it can be seen that, by reporting to the police station on 23/06/2021, the complainant has narrated about the incident,

which took place on 13/05/2021, by stating that when her son Aman was riding on his motorcycle/bullet, the accused persons on the ground that the silencer was making much noise, caught hold of him, abused him and assaulted him by fist and blow, iron rod, hukka pot and bike chain. The two accused were arrested and charge-sheeted.

Further allegation of the complainant is to the effect that on the very same day, the present applicant pulled her by hand and inappropriately touched her chest, which amounted to outraging her modesty and also assaulted her by iron rod and bamboo on her right thigh and also threatened her that he would throw acid on her.

3. The statement of the complainant is compiled in the charge-sheet and she has not offered any explanation for the delay in lodging the complaint in respect of an incident, which took place on 13/05/2021. There is a delay of almost 40 days in lodging the complaint, which is unexplained.

When the injury certificates compiled in the charge-sheet are perused, it reflect simple injuries. As far as Aman is concerned, he has sustained CLW of 2 x 0.5 x 0.3 cm over left parietal region, which is clearly described as simple injury in the Injury Report dated 13/05/2021. As far as the complainant is concerned, the injury certificate reflects a CLW of 3.5 x 1 x 0.5 cm over right side of head, which is also classified as simple injury. Learned counsel for the applicant submits that in respect of the same incident, a cross FIR bearing No.215 of 2021 is lodged by the co-accused and this is

a precise ground, on which accused Nos.1 and 2 were released on bail by the Sessions Court on 30/07/2021. The application filed by the present applicant was rejected on the technical ground that on filing of charge-sheet, anticipatory bail application cannot be entertained.

Considering the fact that investigation is now over and the charge against the co-accused as well as the present applicant has been crystallized in the charge-sheet, with the simple injuries being sustained by the complainant and her son and the accusations particularly levelled by the complainant of outraging of modesty do not warrant any custodial interrogation, the applicant deserve his release on bail in the event of arrest.

Hence, the following order.

: **ORDER** :

- (a) Application is allowed.
- (b) In the event of arrest in connection with C.R.No.289 of 2022 registered with Trombay Police Station, applicant-Mohammad Sharif Abdul Karim 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 17th & 18th October, 2022 between 3.00 p.m. to 5.00 p.m. 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.)