

PMB

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

ANTICIPATORY BAIL APPLICATION NO.3224 OF 2022

ASHFAQUE ZAHOR AHAMED SHAIKH ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Milan Desai i/b. Mr. T. R. Patel for applicant.
Mr. N. B. Patil, APP for State.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 21, 2022.

P.C. :

- 1.** Heard learned counsel for the applicant.
- 2.** This is an application for pre-arrest bail in respect of C.R. No.1500 of 2022 registered with Malwani Police Station, Mumbai, for the offence punishable under Sections 326, 323, 324, 504, 506(2) read with Section 34 of the Indian Penal Code, 1860 (hereafter "the IPC", for short).
- 3.** It is the case of learned counsel for the applicant that the complainant alleged that on 27/09/2022, the applicant used filthy and vulgar language against him and assaulted the informant with hands and iron rod. Learned counsel submitted that the complainant has lodged false complaint against the applicant. According to him, it is in fact the applicant who has sustained serious injuries due to the deadly assault by the complainant. According to learned

counsel, the applicant should not have been charged under Section 326 of the IPC. Learned counsel relied upon the medical case papers to demonstrate that the fracture injury was not ascertained. It is further submitted that the injury is on the index finger. The F.I.R. is lodged after much delay by the witness-Sameer Mansoori.

4. Learned APP relied upon the injury report of one witness name Sameer Mansoori. The X-ray confirms a fracture by a blunt object on the index finger. It is reported that the injury is grievous in nature. Learned APP submitted that there are criminal antecedents against the applicant. There are cases registered against the applicant being C.R. No.359 of 2018 under Sections 452, 427, 323, 504, 506 read with Section 34 of the IPC; C.R. No.410 of 2018 under Sections 324, 323, 504, 506(2) read with Section 34 of the IPC; C.R. No.924 of 2022 under Sections 326, 504, 506(2), 323 read with Section 34 of the IPC and C.R. No.1170 of 2022, CCTNS No.1500 of 2022 under Sections 326, 324, 323, 504, 506(2) read with Section 34 of the IPC registered with Malwani Police Station, Mumbai and C.R. No.05 of 2022 under Sections 452, 324, 323, 504, 506(2) read with Section 34 of the IPC registered with Dindoshi Police Station, Mumbai.

5. Considering the nature of the allegations and the injuries sustained, one of them being a fracture at the index finger, and the criminal antecedents reported, I do not find this to be a fit case to grant pre-arrest bail to the applicant.

6. Learned counsel requested that the Police should investigate into the cross case which has been filed by the applicant against the complainant. It is alleged that the applicant has sustained serious injuries as a result of the assault by the complainant. The Investigating Officer will undoubtedly proceed with the investigation into the complaint made by the applicant in accordance with law and it is always open for the applicant to pursue the remedies available in this regard.

7. Anticipatory Bail Application is rejected.

(M. S. KARNIK, J.)