

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

ANTICIPATORY BAIL APPLICATION NO.804 OF 2023

Mohd. Ali Maksud Khan

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Shubham Upadhyay with Mr. Fahad Qureshi for the Applicant.
Mr. R.M. Pethe, APP for Respondent-State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 17th MARCH, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.PC. filed by the Applicant for pre-arrest bail apprehending his arrest in FIR No.1184 of 2022 (C.R. No.929 of 2022) registered with Mankhurd Police Station, Mumbai, for the offences punishable under Sections 324 and 326 r/w 34 of the IPC.

2. Heard Mr. Upadhyay, learned counsel for the Applicant and Mr. R.M. Pethe, learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by one Balkesh Damodar. A perusal of the FIR prima facie reveals that on 12/12/2022 at 12.30 a.m. there was some altercation between one Vakil Shah and his son-Nadim. The Complainant has stated that the co-accused Anis intervened and tried to prevent Vakil Shah from abusing his son. In the process Anis slapped Vakil Shah. The Complainant has alleged that he saw the Applicant and the co-accused assaulting Vakil Shah and when he intervened, the co-accused inflicted a blow of knife on his head. He has also alleged that the Applicant and the co-accused also assaulted him with sticks and stones and some other weapon.

4. The only allegation against the Applicant is that he had inflicted injury on the First Informant. The medical certificate indicate that the First Informant -Balkeshwar had sustained simple injuries, caused by blunt weapon. The medical evidence does not prima facie substantiate assault by knife or sharp weapon. The records also indicate that the Applicant herein had already lodged a complaint alleging that the First Informant-Balakesh and others had assaulted him by sharp weapon, pursuant to which, crime No.1180 of 2022 has been registered against the First Informant. The Applicant has also placed

on record medical records, which indicate that the Applicant had sustained grievous injuries. Learned APP states that the First Informant, who had allegedly inflicted injuries on the Applicant, is absconding and is not available for interrogation.

5. Considering the above facts and circumstances and in view of discussion supra, this would be a fit case for grant of bail. Hence, the application is allowed on the following terms and conditions:

- (i) In the event of arrest of the Applicant in FIR No.1184 of 2022 (C.R. No.929 of 2022) registered with Mankhurd Police Station, Mumbai, the Applicant is ordered to be released on bail on furnishing bail bonds in the sum of Rs.25,000/- with one or two sureties to the like amount;
- (ii) The Applicant shall report to the Investigating Officer for two days from 20/03/2023 between 11.00 a.m. to 2.00 p.m. and thereafter as and when required by the Investigating Officer;
- (iii) The Applicant shall not interfere with the Complainant and other witnesses in any manner.
- (iv) The Applicant shall keep the Investigating Officer

informed of his current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

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