

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1077 OF 2023

Nilesh Dattatray Gange ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Chaitanya Mulawakar, for the Applicant
Ms. Anamika Malhotra, APP, for the Respondent/State.
Mr. Kokate, PSI, Pimpri police station.

CORAM : N. J. JAMADAR, J.
DATE : DECEMBER 13, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No.233 of 2023 registered at Pimpri police station for the offences punishable under sections 323, 392, 504 and 506 read with 34 of Indian penal Code, 1860.
3. The respondent No. 2 who is an advocate by profession has lodged a report with the allegations that on 23rd February, 2023 the applicant and the co-accused raked up quarrel with him over payment of professional fees and abused and assaulted him by fist and kick blows. The applicant had allegedly robbed the first informant of the cash amount of Rs. 5,000/-.
4. The Court had issued notice to respondent No. 2/ first

informant. On 19th August, 2023 the respondent No. 2 had not appeared. To give one more opportunity to respondent No. 2, the matter was adjourned to 11th September, 2023. None appears for respondent No. 2 today also.

5. Having regard to the nature of the allegations on 13th April, 2023 this Court had granted interim protection.

6. From the perusal of the allegations in the first information report, it appears that there was an altercation over a dispute between the first informant and Adv. Shweta Gange, the cousin of the applicant, over payment of fees for the professional work executed by the first informant. All the offences, except the offence punishable under section 392 of the Code, appear to be bailable.

7. In the backdrop of the nature of the accusation, the custodial interrogation of the applicant does not seem to be warranted. Having regard to the amount of which the first informant was already robbed of, the concern of recovery can be taken care of by directing the applicant to appear before the investigating officer, as such appearance of the applicant before the investigating officer would amount to 'deemed custody' for the purpose of section 27 of the Evidence Act. Hence, the following order.

8. In the event of arrest in C.R. No.233 of 2023 registered with Pimpri police station, the applicant be released on bail on furnishing

a P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

9. The applicant shall cooperate with the investigation and attend Pimpri police station, on 22nd and 26th December 2023 in between 10 am to 1 pm and, thereafter, as and when directed.

10. The appearance of the applicant before the investigating officer which shall be construed as deemed custody for the purpose of section 27 of the Evidence Act.

11. The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

12. The applicant shall regularly attend the proceedings before the jurisdictional Court.

13. It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Application disposed.

(N. J. JAMADAR, J.)