

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

ANTICIPATORY BAIL APPLICATION NO.1288 OF 2023

Rahul Shivnath Vishwakarma

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Pradeep Singh with Mr. Ravindra Nagarkoti and Ms Sarah Pereira
for the Applicant.

Mr. R.M. Pethe, APP for the Respondent-State.

Mr. Patil, API-MHB Colony police station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 28th APRIL, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R. No.163 of 2023 registered with MHB Colony Police Station, Mumbai for the offences punishable under Sections 323, 324, 325, 326 and 367, 504 and 506(2) r/w 34 of the IPC.

2. Learned counsel for the Applicant states that the Applicant has been falsely implicated and that the investigating Officer has not verified the CCTV footage, which was available at the place of the incident.

3. Per contra, learned APP states that the Applicant has been identified in the FIR as boxer. He further submits that five crimes have been registered against the Applicant and he has committed this offence during the period he was externed.

4. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The aforesaid crime was registered pursuant to the FIR lodged by Abhishek Durgaprasad Kanojia. The facts narrated in the FIR prima facie indicates that on 08/04/2023 at about 08.15 a.m. while he was going to a public washroom, the Applicant and other accused came armed with iron rods, sticks, etc. and started assaulting him. They also threatened to cause his death. The First Informant had sustained injuries and was treated in BMC Hospital. The medical records reveal that the First Informant has sustained head injury and other injury. He has also sustained hairline fracture at right nasal process of maxilla. The material on record prima facie shows involvement of the Applicant in commission of the said crime. The records reveal that the Applicant is involved in several other crimes for offences punishable under

Sections 384, 307 and 380, etc. The records also indicate that by order dated 28/08/2021 the Applicant was externed from Mumbai and Thane for a period of two years i.e. i.e. till 27/08/2023. The Applicant, in breach of the said order, entered Dahisar and committed the alleged offence.

6. Considering the above facts and circumstances, the Applicant is not entitled for discretion under Section 438 of the Cr.P.C. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)