

VRJ

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

ANTICIPATORY BAIL APPLICATION NO.1921 OF 2023

Ashish Surendra Pillai

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Dr. Rajendra Anbhule for the applicant.

Ms. Veera shinde, APP for the respondent No.1/State.

Mr. Pradip Kakade, PI, Mundhwa Police Station is present.

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Date: 2023.07.13
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CORAM : AMIT BORKAR, J.

DATED : JULY 13, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.338 of 2022 registered with Mundhwa Police Station, Pune for offences punishable under sections 307, 354-A, 392, 323, 506(2), 504, 201 read with section 34 of the Indian Penal Code, 1860, and section 3 of the Maharashtra Media Persons and Media Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2017, the applicant is seeking relief under section 438 of the Criminal Procedure Code, 1973.

2. According to the prosecution, on 16th December 2022 at about 12:00 hours the informant was in his house. He heard shout raised by his father and looked down the window. He found that

his father is being beaten by the present applicant and his brother. The informant and his mother immediately went to rescue his father. The applicant and his brother Ashish caught hold of the informant. Ashish Assaulted the informant with some hard object, he hit him on his head. The applicant and his brother both assaulted the informant with kicks and fist blows. The applicant snatched away informant's mobile phone from the hands. When mother of the informant tried to intervene, co-accused Surendra Pushed her by her chest, abused her in filthy language and instigated co-accused to beat her too. She was also beaten up. Residents of the society gathered and they rescued the informant and his mother. Hence, the complaint.

3. The applicant, therefore, filed an application under section 438 of the Criminal Procedure Code, 1973 before the learned Sessions Judge, which has been rejected by order dated 19th may 2023.

4. On perusal of the report and transcript of CCTV Camera, it appears that the applicant assaulted the informant with kicks. The resultant injuries which appear from injury certificate are simple in nature. Prima facie consideration of the material, it appears that the assault was not premeditated. There are no antecedents to the discredit of the applicant. Considering manner of assault reflected from the first information report and transcript of CCTV and corresponding simple injuries and considering the fact that remaining co-accused has been released on bail, the applicant has made out a case for relief under section 438 of the Criminal Procedure Code, 1973. Hence, following order:

- a) In the event of arrest of the applicant in connection with C.R. No.338 of 2022 registered with Mundhwa Police Station, Pune for offences punishable under sections 307, 354-A, 392, 323, 506(2), 504, 201 read with section 34 of the Indian Penal Code, 1860, and section 3 of the Maharashtra Media Persons and Media Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2017, he be released on bail on furnishing PR Bond in the sum of Rs.50,000/-, along with one or two sureties in the like amount;
- b) The applicant shall remain present before the investigating officer on 15th, 17th and 19th July 2023 between 11:00 a.m. to 02:00 p.m. and, therefore, as and when called by the investigating officer;
- c) The applicant shall not directly or indirectly contact the informant and his mother during pendency of the trial;
- d) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
- e) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- f) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not

change the residence till the final disposal of the case;

5. The anticipatory bail application stands disposed of in above terms.

(AMIT BORKAR, J.)