

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

ANTICIPATORY BAIL APPLICATION NO. 1996 OF 2023

Mr. Altamash Salim Qureshi	... Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Ravishankar Dwivedi for the Applicant.
Ms. A.A. Takalkar, APP for the State.
Mr. Rajesh Gavali, PI, BKC Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 17th JULY, 2023.

P.C. :-

. This is an Application under section 438 of Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R.No.207/2023 registered with Bandra-Kurla Police Station, Mumbai for offences punishable under sections 307, 323, 504 r/w. 34 of the Indian Penal Code and sections 37(1), 37(3) and 135 of Maharashtra Police Act.

2. Heard learned counsel for the Applicant and learned APP for the 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

Rafiq Beg. A perusal of the FIR prima facie reveals that on 16/05/2023, at about 03:00 a.m., near Gulshan Nursery, Bharatnagar, Bandra, the Applicant and others abused and assaulted the first informant with blows and kicks. The FIR does not indicate that the Applicant was armed with a weapon or that he had inflicted injuries on the first informant by sharp weapon. In fact, the FIR prima facie reveals that the co-accused – Sheru was armed with sharp weapon and had stabbed the first informant on chest and abdomen.

4. It is to be noted that the learned Additional Sessions Judge granted pre-arrest bail to the co-accused – Sheru in view of the statement made by the Investigating Officer that the investigation is concluded and that the presence of the co-accused was not required for the purpose of interrogation. Surprisingly, the same Investigating Officer opposed the application for pre-arrest bail filed by this Applicant on the ground that the presence of the Applicant is necessary to recover the weapon of offence. As noted above, the Applicant was not armed with any weapon and hence, there was no question of recovery of any weapon at his instance. In fact, the Investigating Officer has given no objection to grant pre-arrest bail to the co-accused who was armed with the sharp and who had inflicted injuries on the

first informant by means of said sharp weapon. It appears that the Investigating Officer has opposed the Application mechanically without application of mind. Such casual approach in bail matters needs to be deprecated.

5. The material on record does not prima facie indicate that the Applicant was involved in inflicting injuries as specified in medical certificate. Considering the above facts and circumstances, this is not a case which would justify custodial interrogation. Hence, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the Applicant in C.R.No.207/2023 registered with Bandra-Kurla Police Station, Mumbai, he shall be released on bail on furnishing bail bonds in the sum of Rs.25,000/- with one or two sureties in the like amount ;

(b) The Applicant shall report to the Investigating Officer on 21/07/2023 and 22/07/2023 between 11:00 a.m. to 02:00 p.m.

(c) The Applicant shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;

(d) 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.

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by PREETI
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Date: 2023.07.20
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(SMT. ANUJA PRABHUDESSAI, J.)