

*SA Pathan*

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

**ANTICIPATORY BAIL APPLICATION NO.2063 OF 2023**

SHABNOOR  
AYUB  
PATHAN

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Sujeet Sunil Nalawade

... Applicant

**V/s.**

The State of Maharashtra

... Respondent

Mr. Vikram S. Undre, for the Applicant.

Mrs. Rutuja Ambekar, APP for the State-Respondent.

**CORAM : AMIT BORKAR, J.**

**DATED : JULY 28, 2023**

**P.C.:**

1. Apprehending arrest in connection with C.R.No.229 of 2023 registered with Wakad police station, Pune for offences punishable under Sections 307, 326, 324 r/w 34 of the Indian Penal Code, 1860 (for short 'IPC'), the applicant is seeking relief of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.').

2. According to prosecution, on 04 March 2023 at about 9:15am, the informant Abhishekh Houserao Batate was going from Tapkir Square, Kalewadi to his house as a pedestrian at the time of crossing Shiloh Church Lane, accused had thrown a water balloon on the informant on his backside. Therefore, the informant asked the accused as to who had thrown the said balloon on him. Thereupon, the applicant/accused and co-accused started to beat the informant by kicks and fists blows. Therefore, the informant shouted. Father of the informant was present in the house of his

maternal uncle by name Nitin Pawar. He came to save the informant. The co-accused Shankar Murud assaulted father of informant by koyata (chopper). The informant went to save his father, at that time, he had also assaulted by co-accused Shankar Murud by koyata. The informant and his father were seriously injured. The informant sustained injuries upon his left wrist. The informant lodged the report of this incident.

3. The applicant, therefore, filed application under Section 438 of Cr.P.C. before learned Sessions Judge which came to be rejected by order dated 1 July 2023. Aggrieved thereby, the applicant has filed the present anticipatory bail application.

4. On perusal of the material on record including statements of witnesses, it appears that the co-accused assaulted the informant and his father. The role attributed to the applicant is of assault by fists and kicks blows. On *prima facie* considering, it appears that the attack was not be premeditated. The applicant has no antecedents to discredit. The weapon of assault has been recovered from the co-accused. Therefore, custodial interrogation of the applicant is not necessary. Hence, following order:

a) In the event of arrest in connection with C.R.No.229 of 2023 registered with Wakad police station, Pune for offences punishable under Sections 307, 326, 324 r/w 34 of IPC, the applicant be released on bail on furnishing P.R. bond of Rs.25,000/-, along with one or two sureties in the like amount.

b) The applicant shall remain present before the

concerned police station on 1<sup>st</sup>, 3<sup>rd</sup> and 5<sup>th</sup> August, 2023 between 11:00 am to 2:00 pm and thereafter, as and when called by the investigating officer.

c) 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.

d) 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.

e) 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. No costs.

**(AMIT BORKAR, J.)**