

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO.2226 OF 2023

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Naresh Vithu Mhatre

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Aniket U. Nikam i/by Mr. Amit Icham, for the
Applicant.

Mr. Amit A Palkar, APP for the State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 9, 2023

P.C.:

1. Apprehending arrest in connection with C.R.No.I-181 of 2023 registered with Kamothe police station, Raigad for offences punishable under Sections 326, 324, 323, 504, 506 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 15 June 2023, the applicant as well as informant are engaged in the business of real estate. On the day of incident, at about 8:30 pm, applicant/accused called upon to the informant near to the gate of Kalsekar college. The co-accused was present over there. The incident took place on account of one transaction between the builder and Balaram Shivdas Pawar. Applicant/accused started hitting to him even by sticks on his nose as such, informant sustained fracture injury. The

co-accused hit to informant by stick on left leg, back and on neck and by stone to ribs towards right side. There was two unknown persons along with them. Therefore, the informant lodged the report with the concerned police station.

3. The applicant, therefore, applied under Section 438 of Cr.P.C. before learned Sessions Judge which came to be rejected by order dated 21 July 2023.

4. On perusal of the report and other material produced on record, it appears that immediately after the incident the informant had lodged N. C. Report bearing No.939 of 2023 at 23:45 hours. The incident allegedly occurred at 20:30 hours. The informant described the incident attributing role of applicant i.e. assaulted by fist and blows. However the F.I.R. lodged after five days of assault by sticks is attributed to the applicant. Therefore, the applicant has made out a case for grant relief under Section 438 of Cr.P.C. Hence, following order:

a) In the event of arrest of the applicant in connection with C.R.No.I-181 of 2023 registered with Kamothe police station, Raigad for offences punishable under Sections 326, 324, 323, 504, 506 r/w 34 of IPC, he be released on bail on furnishing P.R. bond of Rs.15,000/-, along with one or two sureties in the like amount.

b) The applicant shall remain present before the concerned police station on 11th, 14th and 17th 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.)