

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

ANTICIPATORY BAIL APPLICATION NO. 2622 OF 2023

Azhar Khan ...Applicant
Versus
State of Maharashtra ...Respondent

AND

ANTICIPATORY BAIL APPLICATION NO. 2623 OF 2023

Afaque Ansar Khan ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Rishi Nirav Bhatt, i/b Sameer Khedekar, i/b Yogesh
Sankpal, for the Applicant in both ABA.
Mr. P. H. Gaikwad, APP for the State/Respondent.
API Dineshkumar Patil, Kondhwa Police Station, Pune,
present.

CORAM: N. J. JAMADAR, J.
DATED: 20th SEPTEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicants and the learned APP for the State.
2. These applications are preferred for pre-arrest bail in connection with CR No.710 of 2023, registered with Kondhwa Police Station, Pune, for the offences punishable under Sections 354 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3. The first informant lodged a report with the allegation that the applicants and co-accused No.1 Zuber Khan and Azhar Khan restrained the first informant from entering into the school premises and outraged her modesty by catching hold of her hand. The applicants allegedly threatened to cause harm to the first informant, if she ever entered the school premises.

4. The learned Counsel for the applicants invited the attention of the Court to an order passed by this Court in ABA/2528/2023 dated 6th September, 2023 granting pre-arrest bail to accused No.1 Zuber Khan. This Court had while releasing Zuber Khan, *inter alia*, recorded as under:

“4. The learned Counsel for the applicant submitted that the first informant lodged the instant FIR as counter-blast to complaint, being Criminal M.A. No.66/2023, filed by the applicant against the Principal and others for the offences punishable under Sections 120-B, 405, 406, 408, 418, 420, 381, 425, 426 and 471 read with Section 34 of the Penal Code, wherein the learned Magistrate passed an order under Section 156(3) of the Code of Criminal Procedure, 1973 on 28th April, 2023.

5. Copy of the order dated 28th April, 2023 and the consequent FIR registered at Kondhawa Police Station against Tabassum Anwar Shaikh and others are annexed to the application at Exhibit-D.

6. *Prima facie*, it appears that the genesis of the alleged offences is in the said dispute. A reference to the said dispute finds mention in the first information report itself. *Prima facie*, the allegations against the applicant appear to be that of assault, insult and intimidation. The question as to whether there was intent to outrage the modesty of the first informant, even if the allegations in the FIR are taken at par may warrant consideration.

5. From perusal of the allegations in the FIR, it appears that the allegation of outraging the modesty of the first informant is primarily against accused No.1 Zuber Khan. The role attributed to the applicants is, at best, that of criminal intimidation. Thus, the custodial interrogation of the applicants is not at all warranted.

6. The applicants appear to have roots in society. The possibility of fleeing away from justice is remote. I am, therefore, inclined to exercise the discretion in favour of the applicants.

7. In the event of arrest of the applicants in ABA/2622/2022 and ABA/2623/2022 in CR No.710 of 2023, registered with Kondhwa Police Station, Pune, the applicants be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, each.

8. The applicants shall cooperate with the investigation and attend Kondhwa Police Station, Pune, on alternate Sunday in between 10.00 am. to 12.00 noon for a period of one month.

9. The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to the first

informant and any person acquainted with the facts of the case.

10. It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

11. Applications stand disposed.

[N. J. JAMADAR, J.]