

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

ANTICIPATORY BAIL APPLICATION NO. 2783 OF 2023

Sameer Shakil Khan	...Applicant
Versus	
The State Of Maharashtra	...Respondent

Mr. Anand Awasarmol, Advocate for the Applicant.

Mr. M. G. Patil, APP for the Respondent – State.

PSI Bipin A. Shinde, Sahar Police Station, Present.

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CORAM : N. J. JAMADAR, J.
DATE : 5th OCTOBER, 2023.

PC.:

1. Heard the learned Counsel for the Applicant and the learned APP for the State.

2. This is an application for pre-arrest bail in connection with C.R. No. 475 of 2023 registered with Sahar Police Station, Mumbai for the offences punishable under Sections 323, 326 and 504 of the Indian Penal Code, 1860.

3. There is matrimonial discord between the applicant and his wife, who stayed at her parental home at Ashok Nagar, Andheri. There was a quarrel between the applicant and his wife. On 27th August 2023, the applicant had gone to her mother-in-law's house as it happened to the birthday of the son of the applicant. Mother-in-law of the applicant called the

first informant, who is a friend of applicant's wife.

4. The first informant alleged that upon being questioned, the applicant abused and assaulted him. The applicant punched him on nose and thereafter picked up an iron stand lying near the temple and gave a blow on his hand. He sustained fracture.

5. Learned Counsel for the applicant submitted that, in fact, after the altercation between the applicant and the first informant both were taken to the police station. After about four hours of the said occurrence, the first informant approached the hospital with the alleged injury on his hand.

6. Learned APP submits that the injury certificate reveals that the first informant had sustained fracture. The eye witnesses to the occurrence, according to learned APP, have stated about the assault perpetrated by the applicant.

7. Learned APP, however, fairly submitted that as per the instructions of the Investigating Officer, who is present in the Court, initially the applicant and the first informant had approached the police station. The first informant had refused to lodge the N.C. complaint.

8. In the aforesaid view of the matter, it appears that the

genesis of the offences is in the alleged matrimonial discord between the applicant and his wife. It seems that the first informant attempted to take the side of the wife and thereupon there was an altercation. It does not appear that the applicant was initially armed with any weapon. In the circumstances of the case, the question as to whether the offence punishable under Section 326 of the Indian Penal Code is made out, would also be debatable. I am, therefore, inclined to exercise the discretion in favour of the applicant.

Hence, the following order:-

ORDER

- (i) In the event of arrest of the applicant in connection with C.R. No. 475 of 2023 registered with Sahar Police Station, Mumbai, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend Sahar Police Station on 12th, 13th, 16th and 17th October 2023 between 10:00 a.m. to 01:00 p.m. and, thereafter, as and when directed.
- (iii) The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant,

any of the prosecution witnesses or the persons acquainted with the facts of the case.

(iv) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(v) It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

(vi) Application stands disposed.

(N. J. JAMADAR, J.)