

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

**ANTICIPATORY BAIL APPLICATION NO. 2782 OF 2023**

Mohammad Ebaad Mohammad  
Siddique Momin ...Applicant  
Versus  
The State Of Maharashtra ...Respondent

Mr.Mateen Shaikh a/w Mr. Nadeem Shaikh, Mr. Muskan Shaikh, Ms. Afrin Khan, Arshad Shaikh, Razique Shaikh Advocate for the Applicant.

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

PSI Arjun P. Dandegaonkar Police Station, Present.

**CORAM : N. J. JAMADAR, J.**  
**DATE : 5<sup>th</sup> OCTOBER, 2023.**

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**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. 441 of 2023 registered with Bhiwandi City Police Station, Thane for the offences punishable under Sections 353, 323, 504 and 506 of the Indian Penal Code, 1860.

3. The applicant had lodged a complaint about unauthorized construction by one Nisar Momin. The applicant alleged that the Officers of Bhiwandi Municipal

Corporation were not taking any action on the said complaint. The first informant was named as one of the Officers, who allegedly committed dereliction of duty.

4. On 5<sup>th</sup> September 2023 the first informant lodged a report with the allegations that at about 10:05 a.m. the applicant entered his office and questioned him about the status of action against the unauthorized construction in respect of which the applicant had made the complaint. When the first informant informed the applicant that action of removal of unauthorized construction would be taken after obtaining necessary police protection, on a particular day, the applicant allegedly abused and assaulted the first informant. The applicant manhandled and pushed the first informant out of his chair and threatened with dire consequences if he came out of his office.

5. Learned Counsel for the Applicant submitted that on 1<sup>st</sup> May 2023 itself the applicant had lodged the complaint with the authorities about the inaction on the part of the employees of the Municipal Corporation including first informant. On 5<sup>th</sup> September 2023 the applicant had gone to the office upon being instructed by the Superior Officer. Attention of the Court was invited to the complaints dated 1<sup>st</sup>

May 2023 and 5<sup>th</sup> September 2023 (exhibit- C and D). It was submitted that the applicant has been falsely roped in as he made complaints against the first informant and other employees.

6. Learned APP on the other hand submitted that there are witnesses to the occurrence, who have stated about the criminal force used by the applicant to the public servant in order to deter him from discharging his official duty.

7. *Prima facie*, there is material to indicate that the applicant had been pursuing the cause of removal of alleged unauthorized construction since months prior to the occurrence. In the complaint dated 1<sup>st</sup> May 2023, the first informant was named as one of the persons, who did not deliberately take action against the alleged unauthorized construction. It seems that the applicant has given a version which competes in probabilities with the prosecution version.

8. In any event, having regard to the nature of the accusation, custodial interrogation of the applicant does not seem warranted. It appears that the applicant has roots in society and possibility of tampering with the evidence and fleeing away from justice, therefore, appears to be remote. I am, therefore, persuaded to exercise the discretion in favour

of the applicant.

Hence, I pass the following order:

**ORDER**

- (i) In the event of arrest of the applicant in connection with C.R. No. 441 of 2023 registered with Bhiwandi City Police Station, Thane, 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 Bhiwandi City Police Station on 12<sup>th</sup>, 13<sup>th</sup>, 16<sup>th</sup> and 17<sup>th</sup> 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.)**