



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

ANTICIPATORY BAIL APPLICATION NO. 2818 OF 2023

Niraj Upadhyay

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Laxman Shahapurkar with Mr. Bhimanna Meti, Ms. Reshma Chavan, Mr. Rohit Mishra, Ms. M. Usmani, Ms. Kartikey Mishra, for Applicant.

Mrs. A. A. Takalkar, APP for State.

Mr. Mali, Park Site Police Station, present.

CORAM:- N. J. JAMADAR, J.

DATED:- 16th OCTOBER, 2023

PC:-

1) Heard the learned counsel for the applicants and the learned APP for the State.

2) This is an application for pre-arrest bail in connection with C.R. No. 597 of 2023, registered with Park Site police station, for the offences punishable under Sections 452, 324, 323, 504, 506 (2) and 509 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3) The gravamen of indictment against the applicant is that on 24th September, 2023, at about 7.30 pm, while the first informant and his mother were at their house, the applicant committed house trespass and assaulted the first informant by means of a stump. When the mother of the first informant came to his rescue, she was also abused and assaulted.

4) The learned Counsel for the applicant submitted that the brother of the first informant is an activist of a political party of which the applicant is also a member. There were disputes between them over political activities.

5) The learned APP submits that the Investigating Officer is yet to obtain the injury certificate of the injured.

6) Prima facie, only the offence punishable under Section 452 of the Penal Code appears to be non-bailable. Even if the allegations in the FIR are taken at par to facilitate further investigation, custodial interrogation does not seem to be warranted. The applicant has roots in society. Possibility of fleeing away from justice seems to be remote.

7) Hence, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 597 of 2023, registered with Park Site

police station, for the offences punishable under Sections 452, 324, 323, 504, 506 (2) and 509 read with Section 34 of Indian Penal Code, 1860, the applicant be released on bail on executing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

II) The applicant shall co-operate with the investigation and attend Park Site police station on 25th, 26th and 27th October, 2023 in between 10.00 am to 1.00 pm and, thereafter, as and when directed by Investigating Officer.

III) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

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

V) The application stands disposed.

[N. J. JAMADAR, J.]