

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3020 OF 2023

Swaroop Beemal Bos ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Ninad Muzumdar, for the Applicant
Mr. M.G. Patil, APP, for the Respondent/State.
Mr. Nikhilesh Pote a/w. Mr. Tanmay Jadhav, for the Complainant
Mr. Dattatrey Pawar, API, Kharghar police station.

CORAM : N. J. JAMADAR, J.
DATE : OCTOBER 30, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 368 of 2023 registered at Kharghar police station for the offences punishable under sections 324, 326 and 504 of Indian penal Code, 1860.
3. On 18th October, 2023 while the first informant was taking a walk in front of Nana-Nani Park, Sector No. 11, Kharghar, a 24-25 year old boy accosted and started to abuse him. The assailant gave blow by means of a knife on the first informant's stomach. The first informant rushed to the gate of the garden. The assailant fled away. The first informant was taken to Medicity Hospital. After primary

treatment, the first informant was referred to Medcover Hospital.

4. The first informant lodged a report with the allegations that there had been a dispute between the first informant and the applicant, the owner of Celcius Logistics Transport. On 3rd August, 2023 an altercation had ensued in front of the gate of Refer India Company. Santosh Patil had lodged a false report against the first informant at the instance of the applicant. On 12th August, 2023 the informant had lodged NC against the applicant as the latter had threatened him. The first informant, thus, stated that he entertained suspicion that the assailant might be a hireling of the applicant.

5. Apprehending arrest, the applicant approached the Court of Session. The learned Additional Session Judge declined to exercise the discretion in favour of the applicant.

6. The learned counsel for the applicant submitted that since a couple of months, there have been disputes between the applicant and the first informant. Attention of the Court was invited to an order passed by the Civil Court granting injunction restraining the defendants from publishing any defamatory material against the plaintiff/ applicant, the NC complaints lodged against the first informant on 4th July, 2023 and 14th August, 2023 and the order passed by this Court releasing the first informant herein on pre-

arrest bail in ABA No. 2852 of 2023 dated 11th October, 2023. It was submitted that on account of strained relationship, the applicant has been falsely roped in and there is no material to connect the applicant with the alleged offence.

7. As against this, the learned APP invited attention of the Court to the injury certificate. It indicates that the applicant had sustained grievous injury over the anterior abdominal wall by means of a sharp weapon.

8. The learned counsel for the first informant submitted that the applicant had threatened the first informant on 12th August, 2023 with dire consequences. The NC No. 1535 of 2023 was lodged after the first informant was granted pre-arrest bail. The applicant had again threatened the first informant. Therefore, the custodial interrogation of the applicant is warranted.

9. Evidently, the applicant and the first informant are at loggerheads over a commercial dispute. Multiple proceedings including the first information report and NC complaints have been filed. The business relationship has taken an inimical proportion. It is in this context, the allegations in the first information report and the material which emerges are required to be appreciated.

10. In the first information report, the first informant, after narrating the incident of assault, suspects the involvement of the

applicant in the assault by unknown person. The injury certificate, prima facie, lends support to the claim of the first informant that he was assaulted by means of a knife. However, apart from the assertion in the first information report and the fact that, in the past, a NC complaint was lodged by the first informant against the applicant, there is no prima facie material to show the complicity of the applicant. Transcript of the whatsapp conversation, does not indicate the threat allegedly given by the applicant. It appears that the relationship has deteriorated over a period of time, with complaints and cross complaints. Prima facie, there is no material to show that the applicant was in touch with the assailant or was found in the vicinity of the scene of occurrence at the time of the alleged assault.

11. In this view of the matter, in the backdrop of the inimical nature of the relationship, I am inclined to hold that the question as to whether the assailant was the hireling of the applicant, prima facie, appears debatable. The applicant appears to have roots in society. Possibility of fleeing away from justice seems remote. I am, therefore, impelled to exercise the discretion in favour of the applicant.

12. In the event of arrest in C.R. No.368 of 2023 registered with Kharghar police station, the applicant be released on bail on

furnishing a P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

13. The applicant shall cooperate with the investigation and attend Kharghar police station, on 6th, 7th and 8th 2023 in between 10 am to 1 pm and, thereafter, as and when directed.

14. The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

15. The applicant shall regularly attend the proceedings before the jurisdictional Court.

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

Application disposed.

(N. J. JAMADAR, J.)