

Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 3039 OF 2023

WITH

INTERIM APPLICATION NO.4059 OF 2023

Imran Shaikh Mujir

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Aniket Nikam i/b Amit Icham, for Applicant.

Mr. S. H. Yadav, APP for State.

Mr. Nikhil Pujari, for Intervenor.

CORAM:- N. J. JAMADAR, J.

DATED:- 2nd NOVEMBER, 2023

PC:-

- 1) Heard the learned counsel for the applicant and the learned APP for the State.
- 2) This application is preferred for pre-arrest bail in connection with C.R. No. 326 of 2023, registered with Yeola City Police Station, for the offences punishable under Sections 395, 397, 387, 323 and 506 read of Indian Penal Code, 1860 ("the

Penal Code”) and Section 25 read with Section 4 of Arms Act, 1959.

3) The first informant lodged a report to the effect that on 18th September, 2023, the applicant and co-accused had come to his house and demanded a sum of Rs.2,00,000/- as the accused No. 1 Farhan had allegedly suffered a loss of Rs.2,00,000/- consequent to the seizure of contraband article- Gutka Pan Masala, pursuant to the intimation given by the first informant. Accused No. 1- Farhan threatened the first informant out of his life if the amount was not paid and took out a scythe. When the first informant tried to run away to save himself, the applicant and the co-accused chased him. Co-accused Gufran Shaikh assaulted him by means of the scythe on his nose and chin. Alarmed, the nearby shop owners put down shutters. Thereafter, the applicant and the co-accused allegedly divested the first informant of a gold bracelet, cash amount of Rs.7,000/- and a Pan Card.

4) The learned Counsel for the applicant submitted that there is a delay of two days in lodging the FIR. The first informant has criminal antecedents. He has been convicted for an offence punishable under Section 376 of the Penal Code. The applicant has been falsely roped in.

5) The learned APP submitted that the allegations in the FIR indicate that the applicant and the co-accused chased and assaulted the first informant.

6) The learned Counsel for the first informant – the applicant in the Intervention Application invited the attention of the Court to the injury certificate which shows that the first informant had sustained injury on the date of occurrence. The learned Counsel further submitted that the applicant and the co-accused are history sheeters. CR No.110 of 2023 has been registered against the applicant.

7) Prima facie, the injury certificate indicates that the applicant was examined on 29th September, 2023. The alleged incident occurred on 18th September, 2023. On 29th September, 2023 an abrasion on the face and nose was noticed on the person of the first informant. The allegation in the FIR was that the accused No. 1 Farhan assaulted the first informant by means of scythe on nose and chin. An assault by means of scythe on nose and chin may not result in a simple abrasion.

8) In any event, the role attributed to the applicant is that of having accompanied the co-accused in chasing the first informant. Neither any demand for the purpose of extortion nor assault has been attributed to the applicant.

9) In the circumstances, I am impelled to exercise discretion in favour of the applicant.

10) Hence, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 326 of 2023, registered with Yeola City Police Station, for the offences punishable under Sections 395, 397, 387, 323 and 506 read of Indian Penal Code, 1860 and Section 25 read with Section 4 of Arms Act, 1959, 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 not contact the first informant, give any threat or inducement the first informant, any of his relatives or any person acquainted with the facts of the case.

III) The applicant shall co-operate with the investigation and attend Yeola City police station on 8th, 9th and 10th November, 2023 in between 10.00 am to 1.00 pm and, thereafter, as and when directed by the Investigating Officer.

IV) The applicant shall not enter the limits of Yeola Police station for the period of one month except for the purpose of attending the police station, as directed by the Court, and as and when directed by the Investigating Officer.

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

VI) The application stands disposed.

VII) In view of disposal of the ABA, the Interim Application also stands disposed.

[N. J. JAMADAR, J.]