

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

ANTICIPATORY BAIL APPLICATION NO. 3215 OF 2023

Salaya Nooralam Khan

...Applicant

Vs.

The State of Maharashtra

...Respondent

Dr. Samanth S. Karmarkar with Ms. Supriya A. Pandey i/b
Karmarkar and Associates, for Applicant.

Mr. M. G. Patil, APP for State.

Mr. S. S. Karvenkar, API, Kurar Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 9th 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. 858 of 2022, registered with Kurar
village Police Station, Mumbai for the offences punishable under
Sections 353, 332, 158 read with Section 34 of Indian Penal
Code, 1860 ("the Penal Code").

3) The first informant is a Bailiff attached to the Court of Small Causes, Mumbai, Bandra Division. On 8th September, 2022, the first informant had gone to Humera Park No. 1, CHS Pathanwadi, Malad (East), Mumbai to serve a summons to Nooralam Khan. He was not found at home. The applicant allegedly questioned the first informant as to why he had come thereat and threatened him that if he again visited the said place, it would not be good for him. The first informant further alleged that while he was waiting on the road, co-accused Yunus Nur Alam Khan accosted him. Mohammad pointed outed the first informant, who assaulted him by means of fist blows.

4) The learned Counsel for the applicant submitted that the applicant allegedly used criminal force and cause hurt to the first informant while he was discharging his official duty. The only role attributed to the applicant is that of questioning the first informant as to why he had come to the said place. The learned Counsel further submitted that Mohammad, who had allegedly assaulted the first informant has since been released on bail.

- 5) The learned APP resisted the prayer for pre-arrest bail as the Court official was assaulted while he was discharging his official duties.
- 6) I have perused the allegations in the FIR. No role of using criminal force to the first informant is attributed to the applicant. In fact, the assault was perpetrated by the co-accused after the first informant left the said building and came down to the road.
- 7) In this view of the matter, whether the applicant shared the common intention with the assailants, would be a matter for adjudication at the trial. In the circumstances, I am inclined to exercise the discretion in favour of the applicant.
- 8) Hence, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 858 of 2022, registered with Kurar village Police Station, Mumbai for the offences punishable under Sections 353, 332, 158 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 Kurar village Police Station, Mumbai on 24th, 25th November, 2023 in between 10.00 am to 1.00 pm and, thereafter, as and when directed by the 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.]