

Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 3272 OF 2023

Firoz Mohammed Sayyed	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. R.M.H. Jabali, for Applicant.

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

Ms. Pallavi Kotwal, PSI, Deonar Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 5th DECEMBER, 2023

P.C.:-

- 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. 1231 of 2023, registered with Deonar Police Station, Mumbai, for the offences punishable under Sections 323, 324 and 326 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3) The applicant and the co-accused Munaf Pathan, who came to be arrested and had since been released on bail, have been arraigned for having caused grievous hurt to the first informant and her friend Nissar by means of Bambu stick and fist and kick blows.

4) The learned Counsel for the applicant submits that in respect of the very same occurrence, the applicant had lodged a report vide CR No. 1230 of 2023 against the first informant and witness – Nissar for the offences punishable under Sections 307, 504 and 506 read with Section 34 of the Penal Code and Section 37 (1) read with Section 135 of the Maharashtra Police Act, 1951.

5) It was further submitted that the material on record does not indicate that either the first informant or witness – Nissar had sustained any grievous injury.

6) I have perused the injury certificate of Nissar. He seems to have sustained simple injuries. In the circumstances, the applicability of the provisions contained in Section 326 of the Penal Code prima facie appears debatable. In any event, the co-accused – Munaf came to be arrested and the alleged weapon of offence i.e. Bambu stick has also been recovered.

7) In the circumstances, custodial interrogation of the applicant does not seem to be warranted for further investigation. Hence, I am impelled to exercise the discretion in favour of the applicant.

8) Thus, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 1231 of 2023, registered with Deonar Police Station, Mumbai, for the offences punishable under Sections 323, 324 and 326 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 Deonar Police Station, Mumbai on 12th and 13th December, 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 or 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.]