



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3315 OF 2023**

Samir Mohammed Shaikh
versus
The State of Maharashtra

... Applicant
... Respondents

Mr. Sandeep Singh, for Applicant.
Ms. Anamika Malhotra, APP for State.
Mr. Guruprasad Daphale, PSI Bandra Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 28 NOVEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.1798 of 2023 registered with Bandra Police Station for the offences punishable under Sections 354, 506(2), 427, 324, 323, 143, 147, 149, 504 read with Section 34 of the Indian Penal Code.
3. The first informant lodged a report with the allegations that there is a dispute about the proprietary title over Shop No.18, Madamwadi, M.S.Sawant Road, Near Lucky Hotel, Bandra (W), Mumbai, between the applicant and her father Ahmed Syed. On 11 November 2023 while the first informant was at her parental home, the applicant and the co-accused barged in their house and the applicant and co-accused allegedly abused and assaulted the father of the first informant. When the

first informant went to rescue her father, the applicant inappropriately touched the first informant and tore off her clothes and thereby outraged her modesty. The applicant had also threatened the first informant out of her life by pointing out a knife.

4. The learned Counsel for the Applicant submitted that in respect of the very same occurrence, the cousin of the first informant has lodged FIR No.1793 of 2023 for the offences punishable under Sections 354, 506(2), 324, 323, 143, 147, 149, 504 of the Indian Penal Code, prior in point of time. In fact, the informant party in the instant case was the aggressor.

5. Prima facie, it appears that in respect of one and the same occurrence, two versions have been reported. A member of the accused party has lodged FIR at a prior point of time. Even if the allegations in the FIR are taken at par, the question as to whether the applicant had necessary criminal intention or knowledge to outrage the modesty of the first informant would warrant consideration. Since the Additional Sessions Judge had granted interim protection to the Accused Nos.2 to 4 and declined to exercise the discretion in favour of the applicant, it may be expedient that ABA 2433 of 2023 be decided by the Court of Session on its own merits and in accordance with law and in the intervening period, liberty of the applicant is protected.

6. Hence, the following order :

ORDER

(i) In the event of the arrest of the Applicant – Samir Mohammed

Shaikh in connection with C.R.No.1798 of 2023 registered with Bandra Police Station, the Applicant be released on bail on furnishing 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 report to Karkamb Police Station on 4th and 5th December 2023 in between 10.00 a.m. to 1.00 p.m., and thereafter, as and when directed.

(iii) This interim order shall continue to operate till ABA 2433 of 2023 is finally decided by the Court of Session.

(iv) The application stands disposed.

(N.J.JAMADAR, J.)