

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3382 OF 2023

Anil Shivaji Pukale	...Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Raviraj Paramane, for the Applicant
Ms. Anamika Malhotra, APP, for the Respondent/State.
API. V.H. Nannavare, Kalamboli police station.

CORAM : N. J. JAMADAR, J.
DATE : DECEMBER 6, 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. 276 of 2023 registered at Kalamboli police station for the offences punishable under section 394 of Indian penal Code, 1860.
3. The first informant was waiting near Mac Donald bus stop at Sion-Panvel highway, Kalamboli for a vehicle to proceed to Pune for delivery of sample of tiles. He asked one of the cab drivers to take him to Pune. The driver demanded Rs. 500/-. The first informant offered Rs. 100/-. An altercation ensued. The cab driver assaulted the first informant. While the first informant was on his way to report the matter to police, the cab driver allegedly assaulted him

by means of sugarcane and robbed him of cash amount of Rs. 3 lakhs. Report was lodged against an unknown person with the description of his features.

4. The learned counsel for the applicant submitted that as the first informant had refused to pay the prevailing fare for travel to Pune, there was an altercation and the first informant has lodged report with an exaggerated version.

5. The learned APP fairly invited the attention of the Court to the statement of one of the witnesses, who has not subscribed to the version of the first informant. In the first information report, the first informant refers to the conversation which he had with the said witness- auto rickshaw driver immediately before the alleged occurrence. However, the latter has not supported the version of the first informant.

6. Prima facie, it appears that the incident was one of road-rage. The question as to whether the first informant was then carrying cash amount of Rs. 3 lakhs which was allegedly robbed of would be a matter for evidence. In this view of the matter, the applicant can be granted pre-arrest bail with a direction to cooperate with the investigation. The appearance of the applicant before the investigating officer amounts to 'deemed custody' for the purpose of section 27 of Evidence Act. Therefore, the aspect of recovery of the

allegedly robbed amount can also be taken care of.

7. In the event of arrest in C.R. No. 276 of 2023 registered with Kalamboli 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.

8. The applicant shall cooperate with the investigation and attend Kalamboli police station, on 14th, 15th and 16th December 2023 in between 10 am to 1 pm and, thereafter, as and when directed.

9. 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.

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

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

Application disposed.

(N. J. JAMADAR, J.)