

Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 3476 OF 2023

Yusuf Iftekhar Khan and Others ...Applicants

Vs.

The State of Maharashtra ...Respondent

Mr. Sachin B. Chandan with Mr. Amol M. Thombare, for
Applicant.

Smt. A. A. Takalkar, APP for State.

Mr. Pavan B. Yadav, API, Powai Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 12th DECEMBER, 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. 614 of 2023, registered with Powai
Police Station, Mumbai, for the offences punishable under
Sections 323, 324, 326, 341 and 504 read with Section 34 of
Indian Penal Code, 1860 ("the Penal Code").

3) The first informant was allegedly assaulted by the applicant and the co-accused lady who were passing in the car, which was driven by co-accused – Aasif Shaikh. The first informant alleged that the co-accused driver had abused and accosted him for having overtaken the car. The first informant, *inter alia*, alleged that the applicant had picked up an iron rod and assaulted him on his head.

4) The learned Counsel for the applicant submitted that in respect of the very same occurrence, co-accused Shama Yusuf Khan had lodged a report against the first informant and his associates being CR No. 611 of 2023, for the offences punishable under Sections 509, 323, 504 and 506 read with Section 34 of the Penal Code on 15th October, 2023. By way of counterblast, the first informant lodged report on the next day.

5) The learned APP resisted the application. It was submitted that the applicant had assaulted the first informant by means of an iron rod.

6) Prima facie, it appears that the genesis of the offences is in road-rage. In respect of one and the same occurrence, two versions have been reported. Co-accused has lodged the FIR prior in point of time.

7) I have perused the injury certificate. It indicates that the first informant had sustained only one injury on the occipital region. The injury was designated as simple. The injury certificate belies the allegations in the FIR that the first informant was mercilessly assaulted by the applicant, co-accused and the passers by.

8) In view of the above, I am persuaded to exercise the discretion in favour of the applicant.

9) Hence, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 614 of 2023, registered with Powai Police Station, Mumbai, for the offences punishable under Sections 323, 324, 326, 341 and 504 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 Powai Police Station, Mumbai, on 20th and 21st 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 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.]