

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

ANTICIPATORY BAIL APPLICATION NO. 3517 OF 2023

SANTOSH
SUBHASH
KULKARNI

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SANTOSH SUBHASH
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Devanand Krishna Patil ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Niranjan Mundargi, a/w Kunal Ambulkar and S. S.
Redekar, for the Applicant.

Mr. S. H. Yadav, APP for the State/Respondent.
API Abhijit Patil, Manpada Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED: 15th DECEMBER, 2023

ORDER:-

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 CR No.853 of 2023, registered with Manpada Police Station, Thane City, initially for the offences punishable under Sections 324, 323, 504 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code"). Subsequently, offence punishable under Section 326 of the Penal Code came to be added.

3. The first informant is the nephew of the applicant. On 23rd October, 2023 an altercation ensued over the first

informant allegedly assaulting the person, who had stopped the music near Krishna Mandir. The applicant initially punched the first informant. When the first informant's brother Sameer questioned the applicant, the latter also assaulted the Sameer by means of a bamboo stick. The applicant allegedly gave blow by means of bamboo stick on the head of Sameer resulting in a bleeding injury. Applicant's son Deepesh also joined in the assault.

4. The learned Counsel for the applicant submitted that the altercation had taken place between the applicant and the first informant and that resulted in a free fight. However, the first informant has reported an exaggerated version. It is submitted that on the day of said occurrence, the applicant had also lodged the report, which came to be recorded as NC No.4183 of 2023 for the offences punishable under Sections 323 and 504 of the Penal Code.

5. The learned APP submitted that the version of the first informant finds support in the injury certificate. Attention of the Court was invited to the injury certificate which reveals that apart from the other injuries Sameer had sustained CLW on the parietal region of the head, which was designated as

grievous. Therefore, the applicant does not deserve the exercise of the discretion.

6. *Prima facie* it appears that the incident occurred in the spur of the moment. Initially there was an altercation. It was followed by a free fight. It appears that when the first informant's brother intervened, the applicant took up a stick and gave blows. *Prima facie* there was no pre-mediation. The weapon of assault seems to have been recovered from the scene of occurrence.

7. In the aforesaid view of the matter, at this stage and having regard to the relations between the parties, custodial interrogation of the applicant does not seem to be warranted to facilitate further investigation.

8. I am, therefore, inclined to exercise the discretion in favour of the applicant.

9. Hence the following order:

: O R D E R :

(i) In the event of arrest of the applicant in CR No.853 of 2023, registered with Manpada Police Station, Thane City, 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 cooperate with the investigation and attend Manpada Police Station on 27th and 28th 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) The applicant shall regularly attend the proceedings before the jurisdictional court.
- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]