

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

ANTICIPATORY BAIL APPLICATION NO. 1628 OF 2024

Ganesh Dnyandev @ Devidas Salunkhe ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Vikrant Phatate, a/w Mahesh Arjun, for the applicant.
Mr. H. J. Dedhia, APP for the Respondent – State.
ASI R. P. Tahthe, Vijapur Naka Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED: 24th OCTOBER, 2024

PC:-

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in C.R. No.1602 of 2022 registered with Vijapur Naka Police Station, Solapur, for the offences punishable under Sections 323, 326 354, 452, 504, 506 read with Section 34 of the Indian Penal Code.
3. On 21st December, 2023 in ABA/3578/2023, this Court was persuaded to grant interim pre-arrest bail to the co-accused - applicants therein, observing, *inter alia*, as under:

“3. Learned Counsel for the Applicant submitted that initially on the report of Kashinath G. Potdar, a NC complaint was registered for the offences punishable under Sections 323 and 504 read with Section 34 of IPC. Upon the applicant No.1 seeking information under the Right to Information Act, Police informed that the offences punishable under Sections 326 and 354 have been registered vide C.R.No.1602 of 2022

4. Learned Counsel further submitted that in the report which was initially lodged by Kashinath G. Potdar, there is no reference to assault by any weapon nor to any act or conduct outraging the modesty of a woman.

5. Prima facie, NC complaint does not advert to any assault by means of any weapon, nor there are allegations of outraging the modesty of a women.

6. Learned APP seeks time to take instructions as the Investigating Officer is not present.

7. It would be necessary to ascertain the allegations in the FIR on the basis of which CR No.1602 of 2023 has been registered and the nature of injuries sustained by the injured.”

4. The learned APP submitted that after injury certificate was received, crime was registered for the offences punishable under Sections 326 and 452 of the Penal Code. The learned APP tenders the injury certificate for the perusal of the Court. It appears that the injured Kashinath Potdar suffered two blunt traumas. There was also a bleeding teeth injury.

5. *Prima facie* it appears that initially only non-cognizable complaint was lodged. In the circumstance of the case whether an offence punishable under Section 326 of the Penal Code is *prima facie* made out, appears to be a matter for adjudication at the trial. Having regard to the nature of the occurrence, the custodial interrogation of the applicant does not seem to be warranted. I am, therefore, inclined to exercise discretion in favour of the applicant.

6. Hence, the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in C.R. No.1602 of 2022 registered with Vijapur Naka Police Station, Solapur, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- and one or two sureties in the like amount.
- (ii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the any of the prosecution witnesses.
- (iii) The applicant shall cooperate with the investigation and report to Vijapur Naka Police Station, Solapur, on 4th and 5th November, 2024 between 10.00 am. to 1.00 pm., and, thereafter, as and when directed.
- (iv) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application disposed.

[N. J. JAMADAR, J.]