

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

ANTICIPATORY BAIL APPLICATION NO.179 OF 2024

Hemraj Garmak Chavan Applicant

versus

State of Maharashtra Respondent

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- Mr. Prashant L. Rathod, Advocate for Applicant.
- Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 22nd JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.304/2023, dated 28/11/2023, registered with Badlapur Police Station, Thane, under sections 289, 323, 341, 504 r/w 34 of the Indian Penal Code and under section 92(a) of the Rights of Persons with Disabilities Act, 2016.

2. Heard Mr. Prashant L. Rathod, learned counsel for the Applicant and Ms. Pallavi N. Dabholkar, learned APP for the State.

3. The FIR is lodged by the first informant who was the mother of a boy aged 11 years. He had disabilities of his both legs. On 27/11/2023 at about 09.15 p.m. the Applicant's pet dog went aggressively towards the informant's son. He fell down and suffered some abrasions. The Applicant came there and took away his dog. The informant went to the Applicant's house to question him. At that time, the Applicant behaved arrogantly with her. While the informant was returning back, one Shinde and her friend spoke with her. They blamed the informant's son and uttered derogatory words against him. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the offences under the Indian Penal Code are bailable. The allegations in respect with section 92(a) of the Rights of Persons with Disabilities Act, 2016, are not directed against the present Applicant. The informant's son was not attacked by the dog. Considering these allegations it is quite clear that the Applicant's

custodial interrogation is not necessary. All the offences alleged against him are bailable.

5. Learned APP submitted that the Applicant needs to be more careful in controlling his dog. But she could not point out any special circumstances for denying the benefit of section 438 of Cr.P.C. to the present Applicant.
6. I have considered these submissions. All the offences alleged specifically against the present Applicant, are bailable. The offence under the Special Act is not made out against the Applicant. Therefore, though the Applicant is apprehending his arrest in connection with a non-bailable offence, that offence is not attracted against him. The Applicant had immediately controlled his dog and it had not attacked the informant's son.
7. Considering all these factors, there is no necessity of the Applicant's custodial interrogation. He can be protected under section 438 of Cr.P.C.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.304/2023, dated 28/11/2023, registered with Badlapur Police Station, Thane, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)