

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

CR. ANTICIPATORY BAIL APPLICATION NO. 285 OF 2024

Jamaluddin Javed Khan ...Applicant
Versus
State Of Maharashtra ...Respondent

Adv. Tushar Kochale a/w. Dr. Ajay Jankar, Adv. Bhavika Solanki for
the Applicant.

Ms. Mahalakshi Ganapathy, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J

DATED : 1st FEBRUARY, 2024

P.C.:

1. The Applicant is seeking anticipatory bail in connection with C. R. No. 290 of 2023 registered at Vinoba Bhave Nagar Police Station, Mumbai dated 25/12/2023 u/s. 392, 323, 427, 504 r/w. 34 of the Indian Penal Code.
2. Heard Mr. Kochale, learned counsel for the Applicant and Ms. Ganapathy, learned APP for the Respondent-State.
3. The FIR is lodged by one Dindayal Rai. The earlier part of the FIR describes that the informant has received Rs.15,000/- on 01/12/2023 on his PAYTM account through the Applicant's father's phone number. It was a wrong transaction. Therefore, the informant contacted the Applicant's father. The money was

refunded by the informant. After that the informant lost some amount from his bank account. He did not know the reason. To be on safer side he asked the Applicant's father to take corrective measures as far as the earlier transaction was concerned. For that purpose, the Applicant's father had gone to his bank to make necessary application. The informant had also come there. The Applicant was accompanying his father. When the informant and the Applicant's father reached the bank, there was some quarrel between them and they started fighting with each other. There are allegation that the Applicant also took part in the fight. He removed Rs.2,000/- from the pocket of the informant. The Applicant's father damaged the informant's spectacles. On that basis, the FIR is lodged.

4. Learned Counsel for the Applicant submitted that the incident as described in the FIR is not true. CCTV footage is available, which would show that the allegations in the FIR are not true. The Applicant has not removed any money from the pocket of the informant.

5. Learned APP produced investigation papers before me. Her only contention on instructions was that the Applicant's custodial interrogation was necessary to recover Rs.2,000/-.

6. I have considered these submissions and perused the investigation papers.

7. There are statements of independent eye witnesses viz. Mohammed Yasin Khan, Manzur Khan and Arif Chaudhary. They have clearly stated that two persons were quarreling with each other. Subsequently, the third one also joined the quarrel. They were abusing each other. In the incident, they started beating each other. The mobile phone and spectacle fell down from the shirt's pocket of one of them. These eye witnesses were not knowing the parties but from their description, it is clear that there was a free fight between the informant on one hand and the Applicant and his father on the other. No injuries are caused to the informant. Significantly, none of these eye-witnesses have stated that the Applicant had removed any money from the informant's pocket. Therefore, in this background of vague allegations and also considering the fact that it was a petty incident, the Applicant's custodial interrogation is not necessary. The Applicant can be protected by an order u/s. 438 of Cr.P.C.

8. Hence, the following order:

ORDER

(i) In the event of his arrest in connection C.R. No. 290 of

2023 registered at Vinoba Bhave Nagar Police Station, Mumbai, the Applicant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- (ii) The Applicant shall cooperate with the investigation.
- (iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)