

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

ANTICIPATORY BAIL APPLICATION NO. 532 OF 2024

Shivbahadur Mangruram Yadav

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Ashok M. Saraogi for Applicant.

Mr. C. D. Mali, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 26 FEBRUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.79 of 2024 registered at Kandivali (West) Police Station, Mumbai, on 28.01.2024, under sections 328, 323, 506 and 120B of the Indian Penal Code.

2. Heard Mr. Ashok Saraogi, learned counsel for the applicant and Mr. Mali, learned APP for the State.

3. The F.I.R. is lodged by one Faijan Khan. He has stated that, he was working as a Watchman at Ekta Nagar on the site of one Ravi Builder. On 27.01.2024, at about 5.30a.m. some people

came there and they manhandled him. There was a dispute between the builder and the society. So, one of those people slapped him and other kicked him. At 6.30a.m. he called his superior Khan. At about 12.15p.m. he received a call purportedly made by one Babubhai. He told the informant that, his number was given by one Yadavji. His superior Khan called the informant and told him to involve a few people falsely in that incident. He further told him that the present applicant had told said Khan to tell the informant to implicate them falsely. At about 2,45p.m. Babubhai came there. He took him behind the hospital. The informant was taken inside one ambulance. One of the three unknown persons held him and the other gave three injections on his little finger or the right hand. It is his case that, they then caught his finger, twisted it and broke it. After that the informant was taken to a Doctor. The doctor made enquiry with the informant and he was sent to the police station. On this allegations, the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the story as narrated in the F.I.R. itself is false. It is a result of dispute

between the society and the builder. The applicant is unnecessarily roped in. The first informant was not instructed by the applicant himself any time to give false names. It is always Khan or Babubhai who had told him about giving false names. There is no harm caused to the informant. No offence U/s.328 of the I.P.C. is made out and, therefore, his custodial interrogation is not justifiable.

5. Learned APP opposed these submissions. According to him, the present applicant had transferred Rs.10000/- in the account of Babubhai. He supports the theory that the applicant had encouraged Babubhai for forcing the informant to take names of the innocent persons in his complaint. Learned APP submitted that the syringes were recovered at the instance of accused Vasu Thombre and they are sent for forensic examination.

6. I have considered these submissions and, in particular, I have seen the medical papers of the informant Faijan Khan. The medical papers show that, there were three injection marks on his little finger. But there was no damage caused to his finger. In the

medical papers, it is clearly mentioned that, there was no bone fracture seen in the current scan. There was only tenderness present on the finger. Thus, it can be seen that the allegations in the F.I.R. of breaking his finger are exaggerated. The three injection marks have not caused any damage to the informant. There is no definite incriminating material directly against the present applicant. The allegations do not cross the threshold of mere suspicion. In this view of the matter, custodial interrogation of the applicant is not necessary. He can be directed to co-operate with the investigation.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.79 of 2024 registered at Kandivali (West) Police Station, Mumbai, the applicant is directed to be released on bail on his executing 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 attend the concerned Police

Station as and when called and shall cooperate with the investigation.

iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)