

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

ANTICIPATORY BAIL APPLICATION NO. 545 OF 2024

Chandbabu Nurulhuda Khan ..Applicant
Versus
The State of Maharashtra ..Respondents

Ms. Pooja A. Jadhav a/w. Zameer Yunus Shaikh for Applicant.
Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 28 FEBRUARY 2024**

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.795 of 2023 registered at Kandivali West Police Station, Mumbai, on 04.11.2023, under sections 354, 354-B, 323 and 504 r/w. 34 of the Indian Penal Code.

2. Heard Ms. Pooja Jadhav, learned counsel for the applicant and Ms. Mahalakshmi Ganapathy, learned APP for the State.

3. The F.I.R. is lodged by the alleged victim herself. She has stated that, her sister in law i.e. her husband's sister had got

married with the applicant in the year 2017. Thereafter there was matrimonial dispute between the applicant and his wife i.e. the sister in law of the informant. Since March 2022, she came to reside with her parent's family in the same house as the first informant. In March 2022, their family had lodged a complaint at Govandi police station against the applicant. In October 2023, the concerned Court had suggested to explore a possibility of settlement. On 26.10.2023, at about 6.30p.m. the applicant came to the informant's house. At that time, the applicant's wife and the informant's other sister in law were present in the house. After some time, the informant's husband and her elder brother in law Shahid came home. The applicant and his wife were discussing about the possibility of settlement. Suddenly, at around 7.00p.m. the applicant started shouting. In the meantime, the applicant's father and brother also reached there. It is further mentioned in the F.I.R. that the applicant suddenly started blaming the informant. The applicant and his brother tore her top. The informant's husband and brother in law intervened. After that the applicant and the other accused left that place. The informant's

father in law was at his native place. He told the informant to wait till he returned. After he returned on 03.11.2023, the informant lodged her F.I.R. on 04.11.2023.

4. Learned counsel for the applicant submitted that the incident is not true. It can be demonstrated by the fact that the applicant's father and brother were at their work place. She referred to the affidavits of co-employees of the father of the applicant and the attendance sheet of the applicant's brother. She claimed that this will demonstrate that the incident is not true and the applicant is falsely implicated because of the matrimonial dispute with his wife. She submitted that, it was improbable that the incident could have taken place in front of all the family members including the male members.

5. Learned APP produced the investigation papers and opposed these submissions based on the statements of the first informant and other family members. She, however, conceded that there is no panchanama of recovery of the torn top and there are no statements of the neighbours recorded so far.

6. I have considered these submissions. There is substance in the submission of the learned counsel for the applicant that the incident is improbable and the complaint is lodged to implicate the applicant. It is difficult to believe that the accused would commit that offence in front of the informant's husband and her brother in law. It is not possible to believe that, both of them did not prevent the accused assaulting and committing the offence of outraging the modesty of the informant. This has to be looked at in the background of the matrimonial dispute between the applicant and his wife. There are no corroborative pieces of evidence except the statements of the family members of the first informant. The torn top is not seized. There are no statements of the neighbours. There is a delay in lodging of F.I.R. The incident allegedly had taken place on 26.10.2023 and the F.I.R. is lodged on 04.11.2023. This clearly indicates that, it is lodged as an afterthought. It indicates that there is a possibility that the F.I.R. is lodged as an afterthought to implicate the applicant as the matter is not settled between the applicant and his wife. Therefore, in cumulative effect of all these

aspects, sufficient doubt is created against the informant's allegations. The applicant, therefore, deserves protection of anticipatory bail order.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.795 of 2023 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 applicant shall not cause any harassment to the informant, the Applicant's his wife and her family members.
- iv) With this observation, the Application is disposed of.

(SARANG V. KOTWAL, J.)