

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

Anticipatory Bail Application No.1673 of 2024

Ibrahim Allaudin Shaikh @ Yunus

Age: 41 yrs, Occ: Site Supervisor

Res/of:- Room No.220, Om Ganesh

Nagar, D-Block, RC Marg, Near

Parvati General Stores, Vasinaka,

Chembur, Mumbai- 400 074

... Applicant

v/s.

The State of Maharashtra

At the instance of

Sr. Inspector of Police

RCF Police Station, Mumbai

... Respondent

....

Mr SK Ali along with Asif Ali, Shabi Fatma and Pratibha Gupta, for the applicant.

Mr CD Mali, for the respondent/ State.

....

Coram : R.N. Laddha, J.

Date : 24 June 2024

P.C. :

Heard Mr SK Ali, the learned Counsel, appearing on behalf of the applicant, and Mr CD Mali, the learned Additional Public Prosecutor representing the respondent/ State.

2. This is an application for pre-arrest bail filed by the applicant, apprehending arrest in CR No.684 of 2023, registered at RCF Police

Station, Mumbai, for the offences punishable under Sections 307, 341, 109 read with 34 of the Indian Penal Code and 37(1)(a), 135 and 142 of the Maharashtra Police Act, 1951.

3. The prosecution alleges that in the night of 20 November 2023, while the informant was returning home on his motorcycle, the co-accused assaulted him and made an attempt on his life. The motive behind this attack was the alleged history of verbal abuse by the informant towards the applicant.

4. Mr SK Ali, the learned Counsel for the applicant, submits that a charge sheet has already been filed against the co-accused. Nothing remains to be recovered or discovered at the applicant's behest. The co-accused have already been released on bail. The learned Counsel argues that the applicant was neither present at the time of the incident nor did he participate in the crime. Further, there are no allegations of the use of the weapon by him. He points out that the informant's statement under Section 164 CrPC was recorded after about two months from the incident. Mr Ali further submits that apart from the present offence, no other offence has been registered against the applicant since 2019. Moreover, the informant has falsely implicated the applicant in the present crime as retaliation, given that nine months ago, the applicant filed a non-cognisable (NC) complaint against the informant. In these circumstances, there is no necessity for the applicant's custodial interrogation.

5. Conversely, Mr CD Mali, the learned Additional Public Prosecutor for the respondent/ State, submits that the applicant has criminal antecedents. Although the FIR does not explicitly name the applicant as an assailant, it does mention that the applicant had verbally abused the informant six months prior to the incident. Given the gravity of the offence, granting anticipatory bail to the applicant may lead to tampering with prosecution evidence/ witnesses.

6. Upon perusing the record, it *prima facie* appears that the applicant was neither present when the incident occurred nor did he assault the informant. The co-accused, who did assault the informant, have already been enlarged on bail, and a charge sheet has also been filed against them. Furthermore, nothing remains to be discovered or recovered from the applicant. The prosecution's apprehension that the applicant may tamper with the evidence/ witnesses can be addressed by imposing appropriate conditions. In these circumstances, the present application is allowed in the following terms:

(a) In the event of the applicant's arrest in CR No.684 of 2023, registered at RCF Police Station, Mumbai, he shall be released on bail on furnishing a PR Bond of Rs.25,000/- with one or more sureties in the like amount.

(b) The applicant shall attend the concerned Police

Station as and when required.

(c) The applicant himself or through any other person shall not indulge in any activity that would tamper with the evidence or influence the witnesses.

7. The application stands disposed of accordingly.

(R.N. Laddha, J.)