

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

Anticipatory Bail Application No. 2185 of 2024

Kunal Shivaji Mhatre

Age about 29 years, Occ. Business,
R/at. Opposite Dilip Kirana Store,
Mharalgaon, Post Varap, Tal. Kalyan,
District Thane.

...Applicant

Vs.

The State of Maharashtra
(At the instance of
Khadakpada Police Station)

...Respondent

Ms Sonia Santis a/w. Mr Mohd Umar Kazi (through VC), for the
Applicant.

Ms Rajeshree Newton, APP, for the Respondent/ State.

Coram: R. N. Laddha, J.

Date: 14 August 2024

P.C.

This is an application filed by the applicant seeking bail in anticipation of arrest in connection with CR No.I-194 of 2020, registered at Khadakpada Police Station, Thane, for the offences punishable under Sections 143, 147, 323, 427, 452, 504 and 506 of the Indian Penal Code.

2. According to the prosecution, the applicant and co-accused pelted stones at the informant's house. Subsequently, they unlawfully entered the informant's residence, causing damage. They also verbally abused the informant's parents. Additionally, they threatened the informant by brandishing a revolver. The underlying motive for this attack was the enmity between the

informant's friend and the co-accused.

3. Ms Sonia Santis, the learned Counsel appearing on behalf of the applicant, asserts the applicant's innocence and submits that the applicant has been falsely implicated in the present crime. Apart from mere allegations in the FIR, nothing is on record linking the applicant to the crime. Additionally, the alleged weapon used in the offence was already recovered from the co-accused, Rahul, who has been released on bail. The investigation is complete. Further, there is no need for recovery or discovery at the applicant's behest. The applicant is ready and willing to abide by the conditions this Court may impose.

4. Ms Rajeshree Newton, the learned Additional Public Prosecutor representing the respondent/ State, contends that the offence is grave. While acknowledging the completion of the investigation, she expresses reservations about granting pre-arrest bail to the applicant, citing concerns that he may tamper with the evidence or influence the witnesses.

5. Upon perusing the records, it appears that the applicant has been accused of verbally abusing, threatening and beating the informant by fist blows. However, apart from the allegations in the FIR and the statements provided by the informant's parents, there is no material on record to substantiate the allegations. The allegation of brandishing a revolver is attributed to the co-accused, from whom the alleged weapon was recovered. The

learned APP acknowledges that the investigation has concluded and that nothing further needs to be recovered from the applicant. Moreover, the co-accused have already been granted bail. To address concerns about evidence tampering and witness influence, appropriate conditions can be imposed. In light of the above, this Court is inclined to grant bail to the applicant in anticipation of his arrest. Hence, the following order:

ORDER

- (i) In the event of the applicant's arrest in CR No.I-194 of 2020, registered at Khadakpada Police Station, Thane, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.
- (ii) The applicant, himself or through any other persons, shall not tamper with the evidence or influence the witnesses.

6. It is clarified that the observations are prima facie and confined to determining the entitlement of pre-arrest bail. The trial Court shall proceed with the trial uninfluenced by the observations made herein and shall decide the case on its own merits in accordance with the law.

7. The application stands disposed of accordingly.

(R. N. Laddha, J.)