

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

ANTICIPATORY BAIL APPLICATION NO. 3059 OF 2024

1. Nitesh Mohan Mhatre
 2. Pratiksha Mohan Mhatre
- ...Applicants

Versus

The State of Maharashtra

...Respondent

- Mr. Kuldeep S. Patil a/w Ms.Saili Dhuru, for Applicant.
- Mr. Balraj B. Kulkarni, APP for Respondent.
- Mr. Milind Phadtare, API, Kharghar Police Station.

CORAM : MANISH PITALE, J.

DATE : 18th NOVEMBER, 2024.

P. C. :

1. Heard learned counsel for the applicants and learned APP for the respondent-State.

2. The applicants herein are apprehending arrest in connection with First Information Report No.0326 of 2024, dated 11th October, 2024, registered at Police Station Kharghar, Navi Mumbai, for offences under Sections 74, 115(2), 352 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS). The only non-bailable offence is under Section 74 of the BNS, which pertains to assault or use of criminal force to woman with intent to outrage her modesty.

3. The informant claims that in the backdrop of a dispute on the question of worshiping a *Devi* in a temple, there was a dispute between the

SHRIKANT
SHRINIVAS
MALANI

Digitally signed by
SHRIKANT
SHRINIVAS MALANI
Date: 2024.11.19
11:01:12 +0530

parties, who are related to each other. It is alleged that during the course of the quarrel, the applicant No.1 acted in such a manner that outraged her modesty and that applicant No.2 assaulted her by pushing her.

4. The learned counsel for the applicants submitted that this is a case of cross-FIRs, where an FIR registered at the behest of the husband of applicant No.2, was registered prior in point in time before the very same Police Station bearing FIR No.0325 of 2024. It is submitted that description of the very same incident and the subsequent acts of the accused therein, would show that the applicants in this application suffered serious physical injuries, due to the acts of the informant and those related to her. It is submitted that the said FIR can be said to be a counter-blast.

5. The learned APP has opposed the application by submitting that the ingredients of offence under Section 74 of the BNS are clearly made out.

6. This Court has considered the rival submissions in the light of the material available on record. Evidently this is a case of cross-FIRs, where there are two versions of the same incident. The FIR registered at the behest of the husband of the applicant No.2 is prior in point of time and it shows that acts are attributed to the informant herein and her relatives, which resulted in serious injuries to the applicants, including head injury to the applicant No.1 and fracture to applicant No.2. In this situation, since the subject FIR was

registered subsequently, after about five hours of registration of the earlier FIR, *prima facie* it can be said to be an afterthought and a counter-blast. In such a situation, this Court is inclined to grant relief to the applicant.

7. Accordingly, the application is allowed in the following terms :

- (A) In the event the applicants i.e. Nitesh Mohan Mhatre and Pratiksha Mohan Mhatre, are arrested in connection with FIR No.0326 of 2024, dated 11th October, 2024, registered at Police Station Kharghar, Navi Mumbai, they shall be released on bail, on furnishing PR Bonds of ₹25,000/- each with one or two sureties each in the like amount.
- (B) The applicants shall cooperate with the investigation.
- (C) The applicants shall not tamper with the evidence in any manner. They shall not influence the informant, witnesses or any other persons concerned with the case.

8. Needless to say, violation of any of the aforesaid conditions would make the applicants liable to face proceedings for cancellation of anticipatory bail.

9. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicants in the

present application and that the Trial Court shall proceed further, without being influenced by the observations made in this order.

10. The application is disposed of.

(MANISH PITALE, J.)