

Shabnoor

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

ANTICIPATORY BAIL APPLICATION NO.3351 OF 2025

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Wasim Ismail Kasmani

... Applicant

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. Amit A. Katarnaware, for the Applicant.

Mrs. Shilpa G. Talhar, APP for the State-Respondent.

Mr. R. D. Toradmal, API, Mumbra Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 5, 2025

P.C.:

1. The applicant seeks protection from arrest in Crime Register No. 1623 of 2025 registered at Mumbra Police Station. The crime invokes Sections 115(3), 3(5), 308(4), 308(5), 308(6), 351(3), 352 and 61(2) of the Bharatiya Nyaya Sanhita, 2023. He has approached this Court under Section 482 of the Bharatiya Nagrik Suraksha Sanhita, 2023 seeking pre arrest bail.

2. As per the prosecution, on the date of the incident, the complainant was selling stationery articles on his handcart. Other hawkers were also present on the site doing their business. At that time, accused Rafiq Kamdar, along with Shahid, Alim and Wasim, came to the complainant and demanded a monthly payment of eight to ten thousand rupees. It is alleged that they assaulted the complainant with fist and kick blows. When the complainant's

friends attempted to intervene, the accused persons chased them, which compelled them to leave the spot and abandon their handcarts. Thereafter, accused Rafiq again demanded ten thousand rupees from the complainant and threatened him with serious harm if he approached the police. It is further alleged that outside the Mumbra Police Station, Arif Khan, said to be an associate of Rafiq, threatened to kill the complainant if he failed to pay the demanded amount every month and also abused him. This resulted in the lodging of the present FIR.

3. Learned counsel for the applicant submitted that the applicant is innocent and implicated without basis. He pointed out that the incident is of 5 October 2025 while the FIR was lodged on 6 October 2025. According to him, this delay is unexplained. He further submitted that the wife of accused No. 1 had lodged an FIR against the present complainant. In that FIR, two lady traffic constables of Mumbra Police Station are witnesses who informed the wife of accused No.1 that the present complainant and his associates were using criminal force on accused No.1. It is stated that accused No.1 immediately reached the spot and the complainant started recording a video. According to the applicant, the complaint filed by the wife of accused No.1 on 5 October 2025 was earlier in time and the present FIR dated 6 October 2025 is lodged only as a counterblast.

4. Counsel for the applicant further submitted that the FIR is lodged on 6 October 2025 and no weapon is alleged to have been used. There is nothing to be recovered or discovered from the applicant. Investigation, according to him, is almost complete. The

applicant has no criminal antecedents. He is prepared to cooperate with the investigation. He submits that custodial interrogation is not required in the facts of the case. He therefore prayed that anticipatory bail be granted.

5. The learned APP opposed the application. He submitted that the offence is serious. The applicants are absconding since the incident. The allegation is of demanding ransom from hawkers and threatening them with serious consequences. The complainant is said to have been assaulted with fist and kick blows. The applicant and complainant reside in the same locality. If bail is granted, there is a likelihood of the applicant fleeing or tampering with evidence. The investigation is at its initial stage. For proper and complete investigation, custodial interrogation is required. Hence, she prayed for rejection of the application.

6. I have considered the rival submissions. I have also perused the FIR, the material placed on record and the nature of allegations. The following reasons weigh with the Court while considering the prayer for pre arrest bail.

7. First. The incident is alleged to have taken place on 5 October 2025. The FIR came to be lodged on 6 October 2025. The delay is not of such length that it affects the prosecution case. At the same time, the explanation for the delay does not appear on record. This circumstance calls for cautious consideration when liberty is at stake.

8. Second. The allegations disclose a quarrel arising in the course of hawking activity. No weapon is attributed to the

applicant. The assault alleged is by fist and kick blows. In such circumstances, custodial interrogation must be justified on specific grounds. The prosecution has not shown any material which requires recovery or discovery at the applicant's instance.

9. Third. The wife of accused No.1 had lodged a complaint on 5 October 2025 against the present complainant. That complaint is earlier in point of time. The version in that complaint suggests a dispute between two groups. The possibility of exaggeration in the present FIR cannot be ruled out at this stage.

10. Fourth. The applicant has no criminal antecedents. He has expressed willingness to cooperate with the investigation. There is nothing on record to show that the applicant, if protected by suitable conditions, will abscond or will not be available for investigation.

11. Fifth. The offence, though non trivial, does not by itself require custodial interrogation unless specific investigative steps demand the applicant's custody. The prosecution has not demonstrated any such necessity. Investigation can proceed effectively by imposing conditions that ensure the applicant's presence and cooperation.

12. Sixth. The applicant and complainant reside in the same locality. The concern of the prosecution regarding possible influence on witnesses can be addressed by appropriate conditions. Denial of liberty is not warranted when such concerns can be balanced by protective terms.

13. On these considerations, the Court is satisfied that custodial interrogation is not required. The applicant deserves protection. Suitable conditions will secure the interest of investigation.

14. Hence, following order:

a) In the event of arrest in connection with Crime Register No. 1623 of 2025 registered at Mumbra Police Station. The crime invokes Sections 115(3), 3(5), 308(4), 308(5), 308(6), 351(3), 352 and 61(2) of the Bharatiya Nyaya Sanhita, 2023, the applicant be released on bail on furnishing P.R. bond of Rs.50,000/-, along with one or two sureties in the like amount.

b) The applicant shall remain present before the concerned police station, as and when called by the investigating officer.

c) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

d) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

e) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the Court concerned, and shall not change the residence till the final disposal of the case.

15. The Anticipatory Bail Application stands disposed of accordingly.

(AMIT BORKAR, J.)