

AGK

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

ANTICIPATORY BAIL APPLICATION NO.3382 OF 2025

Aleem Shabbir Shaikh ... Applicant

V/s.

The State of Maharashtra & Anr. ... Respondents

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KULKARNI

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Mr. Amit A. Katarnaware with Mr. Aditya A.
Katarnaware for the Applicant.

Mrs. Rutuja Ambekar, APP for the State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 9, 2025

PC.:

1. The applicant prays for protection from arrest in Crime Register No. 1623 of 2025 registered at Mumbra Police Station. The offences invoked are under 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 invoked Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and seeks pre arrest bail. The applicant submits that his role is identical to that of co accused Wasim who has already been granted protection by the Court. He, therefore, seeks similar treatment on the ground of parity.

2. The prosecution case is that the complainant was selling stationery articles on his handcart. Other hawkers were also doing business at the site. At that time, accused Rafiq Kamdar along with Shahid, Alim and Wasim allegedly approached the complainant and demanded a monthly payment of eight to ten thousand

rupees. It is stated that they assaulted the complainant with fist and kick blows. When the complainant's friends intervened, they were chased away and compelled to abandon their handcarts. The complainant alleges that thereafter Rafiq demanded ten thousand rupees and threatened him with serious harm if he approached the police. It is further alleged that outside Mumbra Police Station, one Arif Khan, stated to be an associate of Rafiq, threatened the complainant with death if he failed to pay the monthly amount and also abused him. The FIR came to be lodged on these allegations. The applicant submits that the allegations against him are on the same footing as the allegations against co accused Wasim who has already been extended the benefit of protection. He claims parity.

3. Learned counsel for the applicant submitted that the applicant is innocent. He contends that the incident is of 5 October 2025 while the FIR was lodged on 6 October 2025 and the delay is unexplained. He relied upon the FIR lodged by the wife of accused No.1 against the complainant. In that FIR, two lady traffic constables of Mumbra Police Station are shown as witnesses. They reported that the present complainant and his associates had used criminal force on accused No.1. It is stated that accused No.1 reached the spot and the complainant began recording a video. According to the applicant, the FIR dated 5 October 2025 filed by the wife of accused No.1 is earlier in time and the present FIR dated 6 October 2025 is a counterblast. Counsel further urges that co accused Wasim is also alleged to have been present on the spot. The allegations of assault by fist and kick blows apply equally to

both. The applicant therefore seeks bail on parity with Wasim.

4. Learned counsel further submitted that the FIR is dated 6 October 2025. No weapon is attributed to the applicant. Nothing remains to be recovered or discovered. Investigation is substantially complete. The applicant has no criminal antecedents. He is willing to cooperate with the investigation. Counsel submits that custody is not required. He again stressed that co accused Wasim has been granted anticipatory bail and the applicant stands on an identical footing. He therefore seeks similar protection.

5. The learned APP opposed the application. He submitted that the offence is serious. He stated that the applicants have absconded after the incident. The allegation is of demanding money from hawkers and threatening them. It is alleged that the complainant was assaulted. The prosecution contends that the applicant and complainant stay in the same vicinity. There is a likelihood of the applicant tampering with evidence or influencing witnesses. The investigation is at an early stage. The APP submits that custodial interrogation is necessary. He prays for rejection of the application. The APP disputes the plea of parity and submits that each case must be considered on its own facts.

6. I have considered the rival submissions. I have examined the FIR, the material on record and the nature of allegations. I have also considered the contention regarding parity with co accused Wasim. The following reasons guide the Court in deciding the prayer for pre arrest bail.

7. First. The incident is stated to have taken place on 5 October 2025. The FIR is lodged on 6 October 2025. The delay is not substantial. At the same time, the record does not disclose the explanation for the delay. This circumstance requires careful scrutiny when liberty is in question. It also assumes relevance when the applicant claims parity with a co accused against whom similar allegations were raised and for whom delay was not treated as a disqualifying factor.

8. Second. The allegations arise out of a quarrel during hawking activity. No weapon is attributed to the applicant. The alleged assault is with fist and kick blows. In such circumstances, custodial interrogation must be founded upon specific investigative needs. The prosecution has not shown any material requiring recovery or discovery at the applicant's instance. This factual position is identical to that of co accused Wasim. Hence, the plea of parity has substance.

9. Third. The complaint lodged by the wife of accused No.1 on 5 October 2025 is earlier in time. That complaint refers to a dispute between two groups. It gives rise to a reasonable possibility that the present FIR contains exaggeration. This aspect was considered while granting protection to co accused Wasim. The applicant stands on the same footing. Parity therefore merits consideration.

10. Fourth. The applicant has no antecedents. He has expressed readiness to cooperate with the investigation. Nothing on record suggests that he will abscond or refuse to participate in the

investigation if protected by suitable conditions. Co accused Wasim was granted protection on similar grounds. The principle of parity supports a similar conclusion for the applicant.

11. Fifth. The offence is not trivial. However, the prosecution has not pointed out any investigative step that necessitates custodial interrogation. The investigation can continue with conditions ensuring cooperation. This reasoning was applied in favour of co accused Wasim. The applicant stands similarly situated.

12. Sixth. The prosecution expresses apprehension of influence on witnesses because the applicant and complainant reside in the same locality. Such concerns can be addressed by appropriate protective terms. Co accused Wasim has already been granted bail with similar safeguards. The applicant cannot be denied bail when his role and circumstances are indistinguishable. The principle of parity therefore applies.

13. In view of these reasons, the applicant has made out a case for protection from arrest on grounds that include his identical role to that of co accused Wasim. The prayer for anticipatory bail deserves consideration subject to appropriate conditions.

14. 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.

15. 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.

16. The Anticipatory Bail Application stands disposed of accordingly.

(AMIT BORKAR, J.)