



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.851 OF 2024
(Hamid Kha Moti Khan Pathan Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S. Kanetkar, Advocate h/f Mr. Mohd. Amin Mohd. Salim, Advocate for the
applicant.
Mr. C.A. Lokhande, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 5, 2025

Apprehending the arrest at the hands of police in connection with Crime No.479/2024 registered with Police Station Anjangaon, District Amravati for the offences punishable under Sections 352, 191(3), 191(2), 190, 189(2), 118(1) and 109 of the Bharatiya Nyaya Sanhita, 2023, the applicant approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of report lodged by Gulnaz Parveen Nashir Shah an allegation that on 15/07/2024 at about 7.30 PM when her sister and husband of sister returned home from the work at that time, the co-accused Shahrukh Pathan and Hafiz Pathan came and there was abuses by them to her brother-in-law. At the relevant time, present applicant also came there and all the accused assaulted her brother-in-law by fist and kick blows. At the relevant time, co-accused Hafiz Pathan has given a blow of knife on the person of the injured. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned Counsel for the applicant who submitted that as far as the role of the present applicant is only to the extent of assault by the fist and kick blow i.e. also general allegation. As far as causing of the bleeding injury by means of knife is concerned which is against the co-accused Hafiz Pathan. Therefore, the custodial interrogation of the present applicant is not required, and therefore, the interim protection granted to the applicant deserves to be confirmed.

4. Learned APP strongly opposed the application and submitted that applicant is not cooperating with the investigating agency. The Investigating Officer attempted to serve notice on him to call him for the investigation purpose but he is not in the town also. Considering the same, his custodial interrogation is required, and therefore, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. On perusal of the investigation papers it reveals that the as far as the present applicant is concerned against whom the allegation is that he has assaulted by fist and kick blows. However, considering the submission made by the learned APP as he is not available for the investigation purpose, some condition requires to be imposed. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

- (i) The application is allowed.

(ii) In the event of arrest, the applicant – Hamid Kha Moti Khan Pathan in connection with Crime No.479/2024 registered with Police Station Anjangaon, District Amravati for the offences punishable under Sections 352, 191(3), 191(2), 190, 189(2), 118(1) and 109 of the Bharatiya Nyaya Sanhita, 2023, be released anticipatory bail, on executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned police station once in a week i.e. on every Monday between 10.00 AM and 1.00 PM and shall cooperate with the investigating agency.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

(v) On failure to attend the concerned police station the protection granted to the applicant deserves to be cancelled.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)