



**IN THE COURT OF SESSIONS AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI**
ANTICIPATORY BAIL APPLICATION NO. 2028 OF 2022
IN
(C. R. No. 2359 of 2022 of Sakinaka Police Station, Mumbai)

Mr. Raiyan Safiullah Khan,

Age : 20 yrs., Occupation : Student,

R/o : R. No. 5, Mohd. Akaram Manzil Takal Chawl,

Kherani Road, Near Royal Fast Food,

Mumbai : 400 072

..Applicant

V/s

The State of Maharashtra

(through Sakinaka Police Station)

..Respondent

Ld. Adv. Wahid Shaikh, for the applicant.

Ld. APP P.K. Mahajan, for the State.

**CORAM : H.H. THE ADDITIONAL SESSIONS
JUDGE R.M. MISHRA
(C.R.NO.4)**

DATE : 6th January, 2023

ORAL ORDER

This is an application for the grant of anticipatory bail under section 438 of the Cr.P.C., in connection with C.R. No. 2359 of 2022 registered with Sakinaka Police Station, for the offences punishable under sections 452, 324, 506 (2) read with section 34 of the Indian Penal Code.

2 Perused application and say. Heard both sides

3 On 16/12/2022 at the instance of one Fakruddin Jamaluddin Khan aforesaid offence came to be registered.

As can be seen from the FIR, on 15/12/2022 when the aforesaid informant was proceeding towards Khairani Road, Sakinaka to attend cremation of his friend's deceased mother, he found the applicant stood near one Tea-stall. At that time, the applicant uttered him in abusive language. When the informant asked him not to raise any quarrel, the applicant pushed him and by abusing the informant, the applicant dealt blows of iron rod on the right shoulder and elbow of the informant. Thereafter, the applicant made a phone call to his father and his friends. When the complainant went in the office of his Gym, the applicant, his father and their companions came there inside the Gym and criminally intimidated the informant. Therefore, report came to be lodged in the police station.

4 By this application, the applicant has contended that he is respectable person having permanent residence in Mumbai. The applicant is having no earlier criminal antecedent. He is falsely implicated in this crime. The applicant is student and he is innocent. Except Section 452 of the Indian Penal Code, other sections are bailable one. There is delay of three hours in lodging the report which is not satisfactorily explained. The applicant is not required for any custodial interrogation. He is ready to abide the conditions imposed by the court. The applicant, therefore, prayed for his release on anticipatory bail.

5 Application is resisted by the prosecution vide say at Exh. 03 mainly on the ground that the applicant is the main culprit who

had assaulted the informant by means of iron rod. The said weapon i.e. iron rod is yet to be recovered. There is possibility of pressurizing the informant and other witnesses and absconding of the applicant, if the applicant is released on anticipatory bail.

6 I heard the submissions of the learned advocate for the applicant and learned APP. The learned advocate for the applicant submitted that the applicant is youth and he is a student. There are no earlier criminal antecedent to his credit. He is ready to attend the police station and to co-operate the Investigating Agency. On the contrary, the learned APP has submitted that Sections 452 and 324 of the Indian Penal Code are interlinked with each other and weapon used by the applicant is yet to recovered.

7 After considering the submissions of both sides, I have carefully gone through the case diary. On the basis of the statement of the informant and other witnesses, it reveals that earlier, the applicant was coming in Gym of the informant. However, in the wake of behaviour of the applicant in Gym, he was expelled from Gym by the informant. Therefore at about 3 to 4 times, the applicant had threatened the informant. So far as the story of prosecution is concerned, case of the prosecution is two-fold. Earlier incident took place when the informant was assaulted by the applicant by means of iron rod when the informant was proceeding to attend cremation of his friend's deceased mother. Thereafter, when the informant went in the office of his Gym, the applicant came there along with his father and other companions and by entering in the office of Gym, all of them had criminally intimidated the informant.

8 Having regard to the aforesaid circumstances, in my view, the main role is attributed to the applicant who not only assaulted the informant by means of iron rod but thereafter, he also went in the office of the informant along with his father and companions where the informant was criminally intimidated by all the accused persons. I am, therefore, agree with the submissions of the learned APP that the offences under sections 452 and 324 of the Indian Penal Code are interconnected with each other. In order to recover iron rod, custodial interrogation of the applicant will be required. Therefore, in my view, no prima-facie case is made out by the applicant for extending discretion under section 438 of the Code of Criminal Procedure in his favour. In this view of the matter, following order is passed :

ORDER

- 1) Anticipatory Bail Application No. 2028 of 2022 is hereby rejected and disposed of accordingly.
- 2) The concerned Police Station be informed accordingly.

sd/-

(R.M. MISHRA)

Dt. 06/01/2023

Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai

Dictated on : 06/01/2023
Transcribed on : 06/01/2023
Checked on : 06/01/2023
Signed on : 06/01/2023

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

06/01/2023 at 5.27 p.m.
UPLOAD DATE AND TIME

Mrs. S.B. Vichare
NAME OF STENOGRAPHER

Name of Judge (with Court room no.)	HHJ R.M. Mishra, City Civil & Sessions Court, Borivali Div., Dindoshi, Mumbai (C.R.No. 04)
Date of Pronouncement of JUDGEMENT/ORDER	06/01/2023
JUDGEMENT/ORDER signed by P.O. on	06/01/2023
JUDGEMENT/ORDER uploaded on	06/01/2023