

IN THE COURT OF SESSIONS FOR GR. BOMBAY AT MUMBAI

ANTICIPATORY BAIL APPLICATION NO.2796 OF 2022

CNR NO.MHCC02-017113-2022

1. Smt.Firdos Nasir Khan

Age :46 years, Occ. : Housewife

2. Faiz Nasir Khan

Age: 23 years. Occ: Service.

Both are residing at Room No.223,

Road No.14, Tamire Millat Masjid,

Baiganwadi, Govandi, Mumbai-400 043. ... Applicants/Accused

Versus

State of Maharashtra

(At the instance of Shivaji Nagar

Police Station.)

... Respondent.

Ld. Advocate Mr.K.R.Chaubey for applicant/accused.

Ld. Advocate Ms.Naseem Khan for intervener.

Ld.APP Mr. Ramesh Siroya for the State.

CORAM : HIS HONOUR THE ADDL.SESSIONS JUDGE

SHRI.M.S.KULKARNI (C.R.NO.56)

DATED : 10th January, 2023.

(DICTATED AND PRONOUNCED IN OPEN COURT)

ORAL ORDER

1. This is pre-arrest bail application in respect of C.R.No.1243/2022 registered with Shivaji Nagar Police Station for the offences punishable under Sections 327, 324, 323, 452, 504, 143, 146, 147, 149 of the I. P. Code.

2. The FIR was lodged on 12.12.2022 in respect of incident happened on 11.9.2022 around 5.45 p.m. in the evening. The FIR in short

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discloses that sister of the first informant namely Sajrunisa resides at some distance. On relevant date and time the first informant had been at her sister's house on the phone of her niece. He found that her sister was crying. So when he was asking reason someone from backside slapped him on his neck. When he turned back he found that accused including applicants/accused were there. They all assaulted first informant by hand and kick blows. One of the accused namely Afzal also used waist belt to assault one Mujabir Rehman, who had been there to rescue the first informant. Another sister of the first informant namely Mehrunisa also came there to rescue him, who was also assaulted. So when the first informant and his sister Mehrunisa entered into the house of Sajrunisa to dial to police station, all accused intruded therein. One of the accused namely Farkrun removed 50,000/- from the pant pocket of the first informant. When Sajrunisa tried to dial police station the applicant/accused No.1 snatched her mobile.

3. From the FIR itself it is further visible that thereafter both parties had been at police station to lodge FIR and counter FIR. But thereat they settled their dispute. Thereafter for three months there was no grievance from the first informant and then he lodged the FIR.

4. The applicants/accused have asked for bail on the ground that;

- a. They have been falsely implicated.
- b. There is unexplained delay
- c. Only offence punishable under section 452 of IPC is non bailable, while other offences are bailable.
- d. They are ready to co-operate in investigation.
- e. They are permanent resident of Mumbai.

5. The prosecution has objected bail on the ground that;

- a. Thorough custodial interrogation is required.
- b. If bail is granted, applicants/accused will flee from justice.

6. I heard Learned advocate Mr. K.R.Chaubey for applicants/accused, Ld. Advocate Ms.Naseem Khan for intervener and Ld.APP Mr. Ramesh Siroya for the State at length.

7. The fact is that the FIR came to be lodged after delay of three months. Meanwhile there was settlement in between the parties and there was no grievance of the first informant against the accused. As per his contentions on 11.9.2022 Rs.50,000/- were extorted by one of the accused. But while lodging FIR he does not make clear whether said amount was not returned to him after settlement or it is still with said accused. But when there was settlement it has to be presumed that alleged amount was returned to the first informant. If this fact is considered, nothing is remained for which custodial interrogation of applicants/accused is required. So they are entitled for anticipatory bail on the grounds as below;

ORDER

1. Anticipatory Bail Application No.2796 of 2022 is allowed.
2. In the event of arrest of the applicants **Firdos Nasir Khan and Faiz Nasir Khan** in Crime No. 1243/22 registered with Shivaji Nagar Police Station for the offences punishable under Sections 327, 452, 324, 323, 504, 143, 146, 147, 149 of I.P.C., they shall be released on their executing personal recognizance for an amount of Rs.15,000/- each with one or two sureties in the like amount subject to the following

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conditions;

a) The applicants/accused are directed to attend Shivaji Nagar police station on every Monday and Thursday in between 10.00 a.m. to 11.00 a.m. till filing of the chargesheet.

b) They shall co-operate Investigating officer.

c) They shall not tamper with the evidence or influence the witnesses.



Date : 10.01.2023.

(M.S.Kulkarni)
Addl.Sessions Judge,
City Civil and Sessions Court,
For Greater Bombay

Dictated on : 10.01.2023.

Typed on : 12.01.2023.

draft checked on 13.01.2023

Retyped on : 16.01.2023

Signed on : 16.01.2023

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

UPLOAD DATE AND TIME : 16.01.2023 at 01.13 p.m.
NAME OF STENOGRAPHER : Mrs. Prajakta K. More

NAME OF THE JUDGE	HHJ SHRI. M. S. Kulkarni (C.R.No.56)
Date of Pronouncement of Order	10.01.2023
Order signed by the P.O. On	16.01.2023
Order uploaded on	16.01.2023