

CNR NO. MHCC02-017244-2022

IN THE COURT OF SESSIONS FOR GR. BOMBAY
AT BOMBAY
ANTICIPATORY BAIL APPLICATION NO.2825 OF 2022
IN
C.R.No.577/2022

Faizan Mohammed Iqbal Qureshi

Age: 23 years. Occ: Business

R/a: Gaik Mohammed Rafi Nagar,
Shivaji Nagar, Room No.A-33, Govandi,
Mumbai-400 043.

... Applicant/
Orig. Accused.

Versus

State of Maharashtra

(At the instance of Deonar
Police Station vide C.R.No577 of 2022.)

... Respondent.

Ld. Advocate Adv. Rachana Mahale h/f Adv. Anjali Awasti for applicant
present.

Ld. APP Mr. Ramesh Siroya for the State.

**CORAM : HIS HONOUR THE ADDL.SESSIONS JUDGE
SHRI.M.S.KULKARNI (C.R.NO.56)
DATED : 18th January, 2023.**

ORAL ORDER

This application is for anticipatory bail which is moved under Section 438 of the Code of Cr.PC., in respect of C.R.No.577/22 registered at Deonar Police Station, Mumbai, offences punishable under Section 307 and 504 of Indian Penal Code.

2. FIR was lodged by one Mr. Tariq Unis Khan. He alleged that on 09.08.2022 there was a procession of Moharam. He attended said

procession at Byculla and reached at home at 8 o'clock. Thereafter, he was in company of his friends at Ambedkar Garden. At that time at around 11.20 p.m. one Mr. Ubed Ansari came and informed him (the first informant) that when the said procession reached at G.M. Link Road, Govandi, his (the first informant's) brother namely Aarif who was in that procession received one call, so when he was attending that call the applicant/accused came there at. Then the applicant/accused started to abuses and shuffle with Aarif on the ground that his leg was hit against him. As Aarif resisted, the applicant/accused took out knife put at the waist and inserted into the stomach of the Aarif towards left side and ran away. When the first informant reached at procession, Aarif told him same facts and the description of the applicant/accused. So, the first informant and his friends searched for the applicant/accused in the procession. They caught the applicant/accused and when they were taking him to the police station, he ran away from their hands. As Aarif had sustained grievous injury, he was taken to the Sion hospital and admitted in the ICU.

3. The Applicant/accused has asked for bail on the ground that;
 - a. He is falsely implicated in the crime.
 - b. The matter is settled with the first informant, who is willing to file affidavit.
 - c. He is permanent resident of Mumbai and has deep roots in the society.
 - d. He is ready to abide by all conditions of the bail and will not interfere in the investigation.
 - e. He has no criminal antecedents.

4. The prosecution has strongly objected the bail application on the following grounds;

- a. Serious offence has been committed by the applicant/accused.
- b. He is hardened criminal, number of crimes are registered against him, more particularly crime of theft.
- c. If he is granted bail, he will pressurize the prosecution witness and the first informant.
- d. If he is released on bail he will flee away from the justice.

5. I heard Ld. Advocate Adv. Rachana Mahale h/f Adv. Anjali Awasti for the accused and the Ld. APP Mr.Ramesh Siroya at length.

6. The learned advocate for the applicant/accused strongly submitted that the first informant has put on record affidavit sworn by him before the notary disclosing that the applicant/accused has no role in the crime.

7. On the other hand, IO has put on record medical certificate of the victim Aarif. In the medical certificate it is shown that he has sustained grievous injury by stab wound admeasuring 3X3 cm. deep upto abdominal viscera.

8. Advocate for the applicant/accused has asked for anticipatory bail, pm the ground of affidavit sworn by the first informant before the notary, but the fact is that the first informant is not coming before this court to sworn the affidavit. The first informant even did not approach to the IO to disclose him fact, that the applicant/accused was not

involved in the crime, and he had inadvertently mentioned his name in the FIR.

9. As the facts deposed in the affidavit, has not been sworn before this court, nor the investigating officer, made aware and said facts, said affidavit at this stage cannot be accepted and relied upon. The Investigation is at primary stage; custodial interrogation of the applicant/accused is required. Seizure of weapon is essential to prove the crime.

10. On all these grounds, the applicant/accused is not entitled for anticipatory bail. So, this application stands rejected with following order;

ORDER

Anticipatory Bail Application No.2825 of 2022 is hereby rejected and disposed of accordingly.



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

Date : 18.01.2023.

Dictated on : 18.01.2023.
Typed on : 19.01.2023.
Draft checked on : 21.01.2023
Retype on : 23.01.2023
signed on : 27.01.2023

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

UPLOAD DATE AND TIME : 30.01.2023 at 02.31 p.m.

NAME OF STENOGRAPHER : Mr. Ashok S. Patil

NAME OF THE JUDGE	HHJ SHRI.M.S.Kulkarni (C.R.No.56)
Date of Pronouncement of Order	18.01.2023
Order signed by the P.O. On	27.01.2023
Order uploaded on	30.01.2023