

**IN THE COURT OF SESSIONS FOR GR.BOMBAY
AT BOMBAY
ANTICIPATORY BAIL APPLICATION NO.2849 OF 2022**

CNR NO. MH-CC02-017387-2022

Mohd.Ali Maksud Khan

Age: 45 years. Occ: Business.

R/a: Janta Nagar, 20 feet Road,
Near Durga Mata Mandir, Mandala,
G-M Link Road, Mandala,
Mankhurd, Mumbai-400 043.

... Applicant/Accused

Versus

State of Maharashtra

(At the instance of Mankhurd Nagar
Police Station.)

... Respondent.

Learned Advocate Mr. S.C.Kewat for the applicant/accused.

Learned APP Mr. Ramesh Siroya for the State.

**CORAM : HIS HONOUR THE ADDL.SESIONS JUDGE
SHRI.M.S.KULKARNI (C.R.NO.56)**

DATED : 5th January, 2023.

**(DICTATED AND PRONOUNCED IN OPEN COURT)
ORAL ORDER**

. This is anticipatory bail application in respect of C.R.No. 929/2022 registered with Mankhurd Police Station for the offence punishable under Sections 324 and 326 read with Section 34 of the I.PCode.

2. FIR in short discloses that the first informant Balkesh Damodar Gautam is neighbour of one Mr. Vakil Shah. On 12.12.2022 around 9.30 p.m. there was verbal altercation in between Vakil Shah and his son Nadim Shah. So wife of Vakil Shah and son Nadim Shah

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had been outside the house and Mr. Vakil Shah was abusing son from the house. That neighbours of the Vakil Shah who are accused in this crime including the applicant/accused got annoyed because of that and one of the accused namely Anis entered into the house of Mr. Vakil Shah and started to assault him with abusement. As the first informant heard voice of Vakil Shah he rushed to his house and saw that at that time all the accused were assaulting Mr. Vakil Shah. When the first informant tried to save Mr. Vakil Shah accused Anis dealt blow of knife on his head. Then another accused Kuber dealt blow of wooden bamboo on back and left leg of the first informant. Meanwhile one more accused Wasima the wife of first accused Anis dealt blow on paviour block of left knee of the first informant. Meanwhile the applicant/accused dealt blow of unknown weapon near the left eye of the first informant. As the neighbours gathered at the house the accused ran away from the spot.

3. The applicant/accused has asked for bail on the grounds that;

- a. He has been falsely implicated.
- b. This FIR is counterblast to his FIR bearing C.R.No.927/2022 as he was assaulted by knife on his body person. Because of that he was indoor patient in Sion hospital.
- c. This FIR is nothing but concocted and after thought version to falsely implicate all accused. When he himself was assaulted it was not possible for him to assault as alleged.

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

- a. Thorough investigation is required.
- b. Weapon is to be recovered.

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c. If the applicant/accused is granted bail, there will be the question of law and order in the locality.

d. Further the applicant/accused will flee from justice.

5. I heard advocate Mr. Kewat for the applicant/accused and Learned APP Mr. Siroya for the State at length.

6. No doubt there are counter cases from both sides. So far as present FIR is concerned, the applicant/accused is shown with some sharp weapon and it is alleged that he dealt blow of that weapon near the left eye of the first informant. It is alleged that all accused had intruded into the house of Mr. Vakil Shah. In such situation custodial interrogation and recovery of weapon is very much essential. At this stage the court is not supposed to see who was the aggressive party and who acted in private defence. In the result application deserves to be rejected with following order;

ORDER

Anticipatory Bail Application No. 2849 of 2022 is hereby rejected.

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

Date : 05.01.2023.

Dictated on : 05.01.2023.
Typed on : 05.01.2023.
Draft checked on : 06.01.23
Signed on : 07.01.2023

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

**UPLOAD DATE AND TIME : 07.01.2023 at 11.52 a.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	05.01.2023
Order signed by the P.O. On	06.01.2023
Order uploaded on	07.01.2023