

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1023 OF 2015

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| 1. | Shri Mushtaque Abdul Hakim Kazi |) | |
| 2. | Shri Rahil Mushtaque Kazi |) | Applicants |
| | vs. | | |
| 1. | The State of Maharashtra |) | |
| 2. | Sr. Inspector of Police, |) | |
| | Vasai Police Station, Dist. Palghar. |) | Respondents |

Mr. Harshad Bhadbhade a/w Mr. G.B.Naik, Advocate, for the applicant.
Ms. P.P.Shinde, APP, for the State.
Mr. S.R.Gite, PSI, Vasai Police Station, Palghar.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 23rd July, 2015.

P.C.

Heard. This is an application under Section 438 of Cr.P.C.
The applicants herein are apprehending their arrest in Crime No.90 of 2015 registered at Vasai Police Station for the offences punishable under Sections 353, 332, 143, 147, 149 of Indian Penal Code.

2. It is the case of the prosecution that on 27.6.2015, Sandeep Laxman Patil, ASI of Vasai Police Station lodged a report at the police station that on 26.6.2015 when he was on patrolling duty, he was informed

that there has been some violent altercation in Bhuigaon. He reached the spot. At 1 a.m. Samin Asif Kazi, daughter-in-law of the applicant No.1 had given an information that she has been assaulted by some members of her matrimonial home and has been put into detention. She had requested for some police help. A constable was deputed. The patrolling staff reached the spot. He had apprised Shamim of the fact that she may lodge a first information report. She was taken to the police station for lodging the report in accordance with law. She had accompanied the complainant along with her relatives. At that time, it is alleged that the present applicants and others has pelted stones on the police personnel and the vehicles. Hence, they are being prosecuted under Sections 353 and 332 of the Indian Penal Code.

3. The learned counsel for the applicant has placed on record the first information report on the basis of which Crime No.88 of 2015 is registered at the Vasai Police Station against the present applicants and others for the offences punishable under Sections 326, 141, 143, 147, 149, 354, 506, 504, 427 of IPC. Upon perusal of the FIR lodged by Shamim Kazi, it appears that the time and date of the incident is the same as is mentioned in Crime No.90 of 2015. Shamim had lodged a report at the

police station that her brother-in-law had suspected that her daughter Nazia was in love with one Jamil Qureshi who happens to be son of her friend. That she had enquired with her brother-in-law as to why he was causing rumours about the same and at that time there was an altercation between her and the family members. She was assaulted with fist and kick blows at about 11.30 p.m. on 25.6.2015. She has further stated that on 27.6.2015 at about 1.15 a.m, she had been to the police station along with the police and her relatives and at that time, the present applicants and others had pelted stones on the motor car of her brother and had caused damage to it. They had also assaulted her brother with fist and kick blows. It is apparent on the face of the record that initially Crime No.88 of 2015 was registered at the same police station and on the same day and same time Crime No.90/2015 was registered against the present applicants and others.

4. Taking into consideration the facts of the case and the submissions across the bar, it appears that the domestic quarrel has taken an ugly turn and the accused are being prosecuted for the same offence in Crime No.88 of 2015 as well as No.90 of 2015. It is pertinent to note that the applicants have been granted pre-arrest bail in Crime No.88 of 2015.

5. The observations made hereinabove are prima facie in nature and shall not be considered for the purpose of quashing of FIR on the basis of which Crime No.88 of 2015 or 90/2015 are registered. The observations are restricted to grant of pre-arrest bail under Sec. 438 of Cr.P.C.

ORDER

(i) In the event of their arrests, the applicants be enlarged on bail on each furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(ii) The applicants shall report to the concerned police station as and when called.

(iii) The police shall issue 48 hours' notice before calling the applicants to the police station.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)