

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1703 OF 2015

Faizal @ Fajju Kasan Shaikh and ors. ...Applicants.
versus
The State of Maharashtra. ..Respondent.

.....

Mr.M.A.Solkar for the Appellants.
Ms.Rutuja Ambekar,APP. for the State.

CORAM : A.S. GADKARI, J.

16th November, 2015.

P.C. :

This is an application for pre-arrest bail under Section 438 of the Criminal Procedure Code filed by the applicants apprehending their arrest in CR No.I-253-2015 registered with Wada Police Station, District Palghar under Section 397 of the I.P.C. read with Section 37(1) and 135 of the Mumbai Police Act. The complainant Sameer Dilip Mhatre in his FIR dated 13.10.2015 has stated that in furtherance of the quarrel which took place between him and the applicants, the applicants and other accused persons stormed in his shop in the evening. The applicant Nos. 3,4 and 6 assaulted the complainant with fist and kick blows. It is further alleged that the applicant No.2 Wasim gave a blow with a wooden tabel (stool) on the head of the complainant. The complainant has categorically stated that

applicant No.1 Faizal and Applicant No.5 Saijal beat him and snatched a gold chain from his neck. He has further stated that the Applicant No.5 Saijal also assaulted him with wooden log on his head. It is further stated that the Applicant No.2 Wasim Kasam Shaikh also dealt with blow of wooden tabel (stool) on the head of Ajay Kumar Chaudhary who tried to intervene and pacify the assailants. In view of the fact that the said three applicants namely Applicant Nos. 3,4 and 6 have played minor role in the present crime and nothing is to be recovered from them they are entitled to be released on pre-arrest bail. As far as Applicant No.1-Faizal Kasan Shaikh, Applicant No.2 Wasim Kasam Shaikh and Applicant No.5 Saijal Hanif Chaudhary are concerned as recovery of the ornament is to be made at their behest, their pre arrest bail application stands rejected. The applicant No.2 Wasim has been attributed with a role of an aggravated form of offence that he has assaulted on the head of the complainant and also on the head of the said Ajay Chaudhary who tried to pacify the matter. In view of the above, following order is passed.

ORDER

- a) The anticipatory bail application of the Applicant No.1 Faizal

Kasam Shaikh, Applicant No.2 Wasim Kasam Shaikh and Applicant No.5 Saijal Hanif Chaudhary is rejected.

b) The applicant No.3 Kaish Kasam Shaikh, Applicant No.4 Shoiab Kasam Shaikh and Applicant No.6 Ajim Shaikh are released on pre arrest bail in CR No.253/2015 registered with Wada Police Station, District Palghar in the event of their arrest on executing PR bond of Rs.10,000/- each with one separate solvent surety in the like amount.

c) The applicant Nos.3,4 and 6 are hereby directed to attend the Wada Police Station on every Monday, Wednesday and Friday between 10 to 12 a.m. for a period of four weeks from today after their release on bail and thereafter on every Monday between 10 to 12 p.m. till filing of the charge sheet.

d) The applicant Nos. 3,4 and 6 shall not tamper with the prosecution evidence and/or influence the prosecution witnesses.

e) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)