

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1384 OF 2016

1) Harun Ahmed ShaikhApplicants
2) Riyaz Gafur Shaikh

V/s.

The State of MaharashtraRespondent

Mr. Harshad E. Palwe a/w Mr. A. R. Shaikh Advocate for Applicant.
Ms. Veera Shaikh APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : AUGUST 20, 2016.

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicants herein are apprehending their arrest in crime no. 112 of 2016 registered at Igatpuri Police Station for offence punishable under sections 143, 147, 148, 149, 307, 324, 325, 337 and Section 135 and 137 (1) of the Bombay Police Act.

2) It is the case of the prosecution that on 15/06/2016 one Ashpak Shaikh lodged a report at the police station, alleging therein that on 15/06/2016 when he had been to Jamma Masjid near Tikapuri for offering his Namaz, some

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children were playing on the road. His nephew Saif Shaikh had inadvertently dashed against one person. There was an altercation between both the groups. At that time, present applicant had assaulted the complainant and others with deadly weapons like sword. They were taken to the hospital and prosecution was initiated on the basis of the report of Ashpak Shaikh. It appears from the records that cross complaint was filed by Applicant no. 1 wherein the Applicant had alleged that on 15/06/2016, he had seen crowd of people near the house of Rafiq Dhobi. Out of curiosity, he had just stopped by to see what has happened and at that time, accused Ashpak Shaikh (i.e. complainant in crime no. 112 of 2016) had abused him and his family members. That they were armed with swords and sticks and there was an altercation. It is seen from the records that in crime no. 113 of 2016, the accused have been enlarged by virtue of pre-arrest bail by this Court vide order dated 01/08/2016. The complainant in crime no. 112 of 2016 is also an accused who was enlarged on pre-arrest bail by this Court.

3) Perused papers of investigation. It appears that the complainant had sustained contused lacerated wound over right eyebrow and and temporal region and blunt trauma on left elbow. All the injuries are described as simple

injuries by Medical Officer, Rural Hospital, Igatpuri. It appears that the incident had occurred on the spur of the moment, without there being any pre-meditation and the fact that the accused in the cross complaint have been enlarged on pre-arrest bail, applicants herein also deserves the same relief. However, it is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (iii) Applicants shall not reside at Tikapuri till the filing of the charge-sheet.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)