

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1722 OF 2016

Zameer Abdulsattar Sheikh. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

Mr. A. R. Shaikh i/b. Mr. Harshad Palwe, advocate for Applicant.

Mr. S.H. Yadav, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : OCTOBER 4, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 112 of 2016 registered at Igatpuri Police Station for the offence punishable under Section 143, 147, 148, 149, 307, 324, 325,

337 of the Indian Penal Code and Section 135 and 137 (1) of the Bombay Police Act.

3 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 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, the complainant and others were assaulted with deadly weapons like sword. They were taken to the hospital and prosecution was initiated on the basis of the report of Ashpak Shaikh.

4 It appears from the records that cross complaints were filed by both the groups. The learned Counsel for the applicant submits that the name of the applicant is not mentioned in the FIR. Upon perusal of the papers of investigation, it appears that initially name of one Jamil Shaikh had surfaced. Subsequently, it was learnt that he was

not Jamil Shaikh but he was Zameer Shaikh and therefore, a notice was issued to the applicant by the Investigating Officer under Section 162 of the Code of Criminal Procedure, 1973. It is submitted that this Court vide order dated 20/8/2016 has granted pre-arrest bail to one Harun Shaikh who has filed cross-complaint.

5 Taking into consideration the nature of allegations, papers of investigation and the fact that co-accused has been granted pre-arrest bail, the applicant deserves pre-arrest bail.

6 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.

7 Hence, following order is passed :

ORDER

(i) Application is allowed.

(ii) In the event of arrest, Applicant 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) Applicant shall not reside at Tikapuri till the filing of the charge-sheet.

(iv) The applicant shall not tamper with the evidence.

8 Application stands disposed of.

(SMT. SADHANA S. JADHAV,J)