

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1729 OF 2016

1 Toufique Salim Shaikh	
2 Salim Husensab Shaikh.	... Applicants.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Ujwal R. Agandsurve, advocate for Applicants.

Mr. Rajan Salvi, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : OCTOBER 5, 2016**

P.C.:

1 Heard the learned Counsel for the applicants 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 applicants herein are apprehending their arrest in Crime No.419 of 2016 registered at Sadar Bazar Police Station, Solapur, for the offences punishable under Sections 353, 504, 506 read with Section 34 of the IPC.

3 The allegation against the present applicant No. 1 is that initially, he had posed himself as Iqbal Shaikh and subsequently, when he realised that the police was to arrest Iqbal Shaikh, he had in compunction disclosed that he is the nephew of Iqbal Shaikh and his name is Toufique Salim Shaikh.

4 It is the case of the prosecution that Maharaja Lodge, situated at Railway Lines, Solapur, was in fact owned by one Dinesh Jadhav. The Lodge was being run by one Rafique Shaikh and Iqbal Shaikh, who happens to be the uncle of the present applicant. That on 31.8.2016, on the basis of a secret information, the hotel premises were raided as there was an allegation that there are illegal activities going on in the hotel under the provisions of the Immoral Traffic (Prevention) Act, 1956. Upon enquiry, it was learnt that the hotel is being run by Iqbal Shaikh, who was not present in the hotel. It was learnt that Iqbal Shaikh was residing at Lashkar Imamwada. The police had been to the said place. At that time, one Toufique Shaikh had posed himself as Iqbal Shaikh, subsequently disclosed that in fact, he is the nephew of Iqbal Shaikh and only wishes to ascertain the reason why the police

were looking for Iqbal Shaikh. Thereafter, the wife of Iqbal Shaikh had called upon her husband. That Iqbal Shaikh and Toufique Shaikh were humbly requested by the police to sit in the Police Van. They were sitting in the Police Van and at that time, it is alleged that the present applicants and others had tried to take away Iqbal Shaikh from the custody of the police obstructed the police officers from discharging their official duties. Hence the offence.

5 In Crime No. 419 of 2016 registered at Sadar Bazar Police Station, one Sideeque Salim Shaikh has been protected by this Court. At that time, this Court had observed that Sideeque had lodged a report against the police. It prima facie appears that Sideeque had lodged a report against the police. It prima facie appears that Sideeque as well as Toufique Shaikh attempted to deter the police to arrest Iqbal Shaikh. Hence, on the ground of parity, the applicants deserve to be granted pre-arrest bail.

6 It is made clear that the observations made hereinabove are restricted to an application under Section 438 of Cr.P.C. and shall not

be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

7 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of his arrest, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each with one or two sureties in the like amount.
- (iii) The applicants shall report to the police station on 8th and 10th October, 2016 between 10 a.m. to 12 noon and co-operate with the investigating agency to the best of their capacity.
- (iv) The applicants shall not tamper with the evidence.

8 The Application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)