

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2066 OF 2016

1. Ahmed Maharuf Khan
2. Shahadab Maharuf Khan
3. Riyaj Maharuf Khan
4. Shahabaj Maharuf Khan

.....Applicants

V/s.

The State of Maharashtra

....Respondent

Mr. S. G. Deshmukh i/b Mr. Kanchanpurkar Gautam Tatoba
Advocate for the Applicants.
Mr. Vinod Chate APP for the State.
Mr. D. T. Ambhore, HC, Wanvadi Police Station, Pune City.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 7th DECEMBER, 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. 545 of 2016 registered at Wanvadi Police Station for offence punishable under sections 307, 143, 144, 147, 148, 149, 504 & 506 of the Indian Penal Code.
- 2) It appears from the records that on 07/11/2016 at about 8.30 p.m., when present applicant no. 1 was returning home from the Pan Stall of Suresh, he

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saw the crowd near the office of Maruk Inamdar who happens to be a counsellor. Out of anxiety, he went to the office, there he saw that Aaysar Shaikh & Mushairk Sayyad were quarreling. It also appears that present applicant no. 1 had tried to pacify both of them. In the said course, applicants also got involved in the quarrel between two groups. It appears that some people belonging to the group of the present applicants were also injured in the said scuffle and on 08/11/2016, Maaruf Hussain lodged a report at the police station on the basis of which crime no. 544 of 2016 was registered against Musharik Sayyad and others.

3) It appears from the records that on the same day at about 8.15 p.m., Musharik Sayyad also lodged a report at the police station alleging therein that at about the same time on that day and at the same place, he had seen a quarrel between Aaysar and Sayyad and when he had attempted to intervene there was a quarrel between both groups. On the basis of the report of Musharik, crime no. 545 of 2016 is registered at the same police station against present applicants for offence punishable under section 307 of the Indian Penal Code.

4) Perused papers of investigation, more particularly the injury

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certificates. It appears from the injury certificates that all the injured had sustained simple injuries.

5) The learned counsel for the applicants submits that the registration of the crime no. 545 of 2016 appears to be a counter blast to the registration of the crime no. 544 of 2016. In fact, there is no previous enmity between both the groups and that both the groups have realized that initiation of criminal prosecution would not be appropriate in the given circumstances.

6) Taking into consideration the papers of investigation, more particularly the injury certificates, this Court is of the opinion that applicants deserve grant of pre-arrest bail. However, it is made clear that observations made herein above are restricted to an application under section 438 of the Code of Criminal Procedure, 1973 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/- each with one or two sureties in the like amount.

(iii) Applicants shall report to the concerned police station on four consecutive Sundays commencing from 11/12/2016 between 10.00 a.m. to 12.00 noon and co-operate with the investigating agency to the best of their capacity.

(iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)