

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE SIDE JURISDICTION  
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2122 OF 2016

1. Sohel Sabir Sayyed .....Applicants  
2. Mushu Sabir Sayyed  
3. Alfaz Shakil Pathan  
4. Sabir Amir Sayyed

V/s.

The State of Maharashtra ....Respondent

Mr. S. G. Deshmukh i/b Mr. G. T. Kanchanpurkar  
Advocate for the Applicant.  
Mr. Y. M. Nakhwa APP for the State.

**CORAM : SMT. SADHANA S. JADHAV, J.**  
**DATED : 13<sup>th</sup> DECEMBER, 2016.**

**PC :**

1) Heard. This is an application under section 438 of the Code of Criminal Procedure, 1973. Applicants herein are apprehending their arrest in crime no. 544 of 2016 registered at Wanvadi Police Station for offence punishable under sections 143, 144, 147, 148, 149, 504, 506 of the Indian Penal Code.

2) It appears to be a case of cross complaint. Applicants herein are accused in crime no. 544 of 2016. The learned counsel for the applicants has drawn the attention of this Court to the order dated 07/12/2016 passed in

ism

Criminal Anticipatory Bail Application No. 2066 of 2016 wherein this Court had observed that both parties have decided to arrive at an amicable settlement since there was no previous enmity. In the present case, papers of investigation would reveal that Riaz had sustained one contused lacerated wound. It is the case of the prosecution that on 08/11/2016, he was assaulted by applicants with sword, sickle and baseball stick. The medico legal certificates placed on record do not corroborate the allegations in the F.I.R. The learned Sessions Judge has also observed that both parties have settled their disputes. It is true that the offence is against the society.

3) The learned APP submits that the complainant as well as the applicants have used the police machinery for satisfying their personal vendetta. However, applicants cannot be denied relief under section 438 of the Code of Criminal Procedure, 1973 only because they have compromised. The State has not framed any rules for taking any coercive action against the parties who initiate criminal prosecution just for the sake of satisfying their vendetta and utilize the machinery of the State as well as it only increases the docket of the judiciary. It is for the State to frame policies to take coercive action against such litigants.

4) Taking into consideration the papers of investigation as well as the fact that they have compromised the matter, applicants deserve pre-arrest bail, however, the same shall not be taken into consideration for the purpose of 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 more sureties in the like amount.
- (iii) Application stands disposed of.

**(SMT. SADHANA S. JADHAV, J.)**