

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

ANTICIPATORY BAIL APPLICATION NO. 233 OF 2018

Waqar Ahmed Mohammed Ismail Momin ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. R.D. Suryawanshi for the Applicant.
Mr. S.S. Hulke, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.
DATE : 07th FEBRUARY, 2018

P.C.:

. This is an application under Section 438 of Cr.P.C. for pre-arrest bail in C.R. No. I-414 of 2017 dated 16.12.2017 registered with Bhiwandi Police Station, District Thane, under Sections 307, 326, 323, 324, 143, 147, 148 and 149 of the Indian Penal Code.

2 The FIR is lodged by Shri. Hashim Mohammad Shakir Ansari. It is the prosecution case that on 15.12.2017 at about 8.30 p.m. a meeting was arranged at Quarter Gate, Majjid at Bhivandi. Due to some dispute between two groups, it is alleged that Applicant along with other accused persons assaulted the first informant and other victims mercilessly with wooden rods. It is stated that witness Kasim Ansari got unconscious on the spot and the leg of the first informant was fractured in said assault and other witnesses also got injuries.

3 The learned Counsel for the Applicant submitted that Applicant No.4 has filed a cross complaint bearing C.R. No. I-413 of 2017 dated 16.12.2017 arisen out of said incident and the some of the accused persons in the said crime have been released on bail. He submitted that the parties herein entered into an amicable settlement and have decided not to pursue the matter further. He therefore, prayed that the Applicant may be granted pre-arrest bail.

4 The record indicates that the Criminal Writ Petition filed by the Applicants for quashing of the FIR by consent was not entertained by the Division Bench of this Court and therefore, the submission with respect to compromise between the parties inter-se cannot be entertained at this stage. The medical report of injured witnesses corroborates the version of the first informant and other witnesses. The learned Trial Judge while rejecting the application of pre-arrest bail of the Applicant has observed that, there are 13 offences including communal rites are pending against the Applicant along with co-accused Yusuf Raza. It appears that Applicant was on bail in other crime while committing the present offence.

5 After taking into consideration the serious allegations against the Applicant and the gravity of the offence, coupled with the finding that there are several cases pending against him, this Court is of the view that the Applicant does not deserve to be protected by pre-arrest bail.

6 Application is accordingly rejected.

(A.S.GADKARI, J.)