

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

ANTICIPATORY BAIL APPLICATION NO. 238 OF 2018

Mohd. Sahjad Malik @ Sajju Malik ...Applicant/Accused

Versus

State of Maharashtra and another ... Respondents

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Mr. S. R. Mishra for the Applicant.
Smt. J.S. Lohokare, APP for the State.

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CORAM : A. S. GADKARI, J.

DATE : 08th FEBRUARY, 2018.

P. C.

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 for pre-arrest bail in CR No. 330/2017 dated 26th August, 2017 registered with Mulund Police Station, Mumbai, under Sections 307, 342, 369, 114, 323, 504 and 34 of the Indian Penal Code.

2. Heard the learned Counsel for the applicant and the learned APP. Perused the record of investigation.

3. The FIR is lodged by Smt. Farida Badshah Syed, the Aunt of victim Mr. Nasir Shaikh. It is the prosecution case that the applicant is residing in the same locality wherein the informant is residing. That the applicant was having grudge against the victim as he had torned the banner of the applicant which was fixed in the locality and due to which, on 24th August, 2017, at about 11.00 a.m. the applicant along with other accused persons abducted Nasir Shaikh and took him to the forest and thereafter removed his cloths, assaulted him with belt, kicks and fist blows. It is further alleged that the applicant thereafter poured petrol and oil on the private parts of the victim and set him on fire. The victim sustained injuries and suffered mental trauma. It is further alleged that the applicant gave threats to the close relatives of the victim thereby preventing from lodging complaints with the Police and taking the victim for treatment to the Government Hospital.

4. The learned Counsel for the applicant submitted that the applicant has been falsely implicated in the present crime. He submitted that, there is a delay of two days in lodging the FIR which is not explained by the prosecution. He further submitted

that three other accused persons have been arrested by the Police and are now released on bail and the necessary recovery of weapons has been effected from the said accused persons. He therefore prayed that after taking into consideration the said facts, the applicant may be granted pre-arrest bail.

5. The record indicates that the first informant has properly explained the delay in lodging the FIR. It is stated that due to the threats of serious consequences extended by the applicant who is a known criminal in the locality, the close family members of the victim did not approach the Police immediately. It is further stated that the applicant even prevented them from taking treatment at Government Hospital. The record further indicates that the Police have recorded the statement of victim Nasir Shaikh. The facts narrated by the victim in his statement are duly corroborated by the medical certificate issued by the L.T.M.G. Hospital, Sion, Mumbai. Indubitably, the offence alleged against the applicant is serious in nature. The record further indicates that from the day of incident, the applicant is absconding. The learned Trial Court in the impugned order dated 15th January, 2018 has observed that there are in all 13 cases pending against the applicant.

6. After taking into consideration the above facts and circumstances, so also the serious allegations against the applicant and the gravity of the offence, the applicant does not deserve to be protected by pre-arrest bail.

7. Application is accordingly, rejected.

(A. S. GADKARI, J.)