

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

ANTICIPATORY BAIL APPLICATION NO. 673 OF 2018

Gajanan @ Gaju Sahebrao Thorat	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Piyush Toshniwal I/b. Mr. Aashish Satpute for the Applicant.

Ms Pallavi N. Daholkar, APP for the Respondent-State.

Mr. A.B. Barve, Police Constable Nashik Road Police Station, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 8th OCTOBER, 2018.

P.C.:-

This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R. No.66 of 2018 registered with Nashik Road Police Station, District-Nashik, for offences punishable under Sections 307, 323 and 504 r/w. 34 of the Indian Penal Code, 1860 and under Section 135 of the Bombay Police Act.

2. Heard Mr. Piyush Toshniwal, the learned counsel for the Applicant and Ms Pallavi N. Dabholkar, the learned APP for the Respondent-State. I have perused the records and considered the submissions advanced by the learned counsels for the respective

parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by one Nawaz Shaikh. The FIR prima facie reveals that on 14.2.2018 at about 10.30 p.m. there was some quarrel between the first informant and the co-accused-Datta Bhangre. It appears that both parties had gone to the police station and that the police had settled the matter. The first informant has stated that after he left the police station at about 11.30 p.m. and when he reached the flyover, said Datta Bhangre came there alongwith the Applicant and others and assaulted him with a Koyta.

4. The FIR does not indicate that the Applicant was armed with any weapon. The specific allegation against the present Applicant is that he had slapped the first informant. The material on record does not prima facie indicate that the Applicant herein had caused any injury to the first informant. It is true that Section 34 of the IPC recognises the principle of vicarious liability. However, the question whether the Applicant shared the 'common intention' and whether he had acted in furtherance of common intention is a matter, which will have to be decided on the merits of the matter.

5. The nature of the allegations levelled against the Applicant do not justify custodial interrogation. It is submitted that the Applicant is a permanent resident of District-Nashik., hence, there is no possibility of his absconding or thwarting the course of justice. The learned APP submits that the Applicant has criminal antecedents and that he is involved in several other crimes. In my considered view considering the nature of the allegations levelled against the Applicant in the present crime, criminal antecedents by itself would not be a ground for rejection of the application for pre-arrest bail, more particularly when the learned counsel for the Applicant has made a statement that the Applicant will not interfere with the complainant and the witnesses and that he will not commit any such illegal act. The statement is accepted.

6. Under the circumstances, the applicant is entitled for pre-arrest bail. Hence, the following order:-

- (i) In the event of arrest of the Applicant in C.R. No.66 of 2018 registered with Nashik Road Police Station, District-Nashik, the Applicant shall be released on bail on furnishing bail bonds of Rs.25,000/- with one or two solvent sureties in the like amount.

- (ii) The Applicant shall report to the Investigation Officer of the Nashik Road Police Station for a period of four days from 15.10.2018 and thereafter as and when required and called by the Investigation Officer.
- (iii) The Applicant shall furnish his permanent as well as temporary address, if any, and his contact details to the concerned Investigation Officer.
- (iv) The Applicant shall not change his residential address without prior intimation to the concerned Investigation Officer.
- (v) The Applicant shall not interfere with the complainant and other witnesses and shall not commit any such similar crimes /illegal activities.

(SMT. ANUJA PRABHUDESSAI, J.)