

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1410 OF 2018**

Firoz Khawaja Mohd. Shaikh.

.. Applicant.

V/s.

The State of Maharashtra.

.. Respondent.

Mr. Sharif Shaikh a/w. Mr. Ansar Tamboli a/w. Mr. Sajid Qureshi I/b. Mr. Mateen Shaikh, advocate for applicant.

Mr. Y.Y. Dabke, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J.**

**DATE : JULY 25, 2018.**

**P. C. :**

1            Heard the learned Counsel for the applicant and Learned APP for State.

2            This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 153 of 2018 registered at Nashik Road Police Station, Nashik for offence punishable under section 307, 143, 147, 149, of the Indian Penal Code.

3            It is the case of the prosecution that Gajanan Thorat lodged a report at the police station on 19/4/2018 alleging therein that 2 months

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prior to the registration of FIR, there was a quarrel between Sunil and Baba Shaikh. The first informant had intervened in the quarrel due to which Baba Shaikh and others were annoyed with him. That on 18<sup>th</sup> April, 2018 Baba Shaikh and Irfan Shaikh had approached him. They were accompanied by two persons. They had concealed their face with scarf. It appears that all the three persons were holding deadly weapons. He was brutally assaulted by 3 known persons and later on joined by two unknown persons. That on the basis of the said report, these persons are arrested from 11/5/2018 to 25/5/2018. On 9/5/2018 supplementary statement of the first informant was recorded and he has disclosed that on 18<sup>th</sup> April, 2018 he had learnt from reliable sources that Baba Shaikh, Akshay Naikwade and Irfan Shaikh were accompanied by Ashfaq Shaikh, Jafar Shaikh, Firoz Shaikh, Iqbal Shaikh, Kiran Patil. He has clarified that when he was being assaulted by the principal accused, the other persons were standing in ambush and as soon as the assault was over, they had fled from the spot. It is apparent that even in the first information report, first informant had not stated that unknown persons were not armed with weapon and that they had assaulted him. It is subsequently stated that three known persons were holding sickle and they had assaulted by means of glass bottles on his head.

4           The learned Counsel for the applicant submits that the police

had been to the shop of the present applicant and has informed his family members that the present applicant has been arraigned as an accused and therefore, apprehension of arrest. In view of the above observations and circumstances, the applicant deserves pre-arrest bail.

5           The observations are restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and the same shall not be considered for discharge application or quashing of FIR or at the time of trial.

6           Hence, following order is passed :

**ORDER**

(i)           In the event of arrest in Crime No. 153 of 2108 registered at Nashik Road Police Station, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- with one or more solvent sureties in the like amount.

(ii)          The applicant shall report to the concerned police station from 30/7/2018 to 2/8/2018 between 10.30 a.m. to 1 p.m. and cooperate with the investigating officer to the best of his capacity.

(iii)         The applicant shall not tamper with the evidence.

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(iv) The applicant shall give an undertaking to the police station that he will not leave Nashik till filing of the charge-sheet without prior permission of the Investigation Officer.

7 The application is disposed of accordingly.

**[SMT. SADHANA S. JADHAV, J.]**

Aruna Sandeep  
Talwalkar

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Sandeep Talwalkar  
Date: 2018.07.31 11:37:54  
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