

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

ANTICIPATORY BAIL APPLICATION NO.1565 OF 2018

Mushir Ahmad Shaikh & Ors. Applicants
Vs.
The State of Maharashtra Respondent

Mr. Shaikh Ejaaz Noor Mohammad for the Applicants.
Mr. S.S. Pednekar APP for the State.

Mr. Dinesh Bhadane, PSI, Surgana Police Station, present

Coram : *Smt. Sadhana S. Jadhav, J.*
Date : *6th August, 2018*

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 438 Code of Criminal Procedure. The applicant herein is apprehending his arrest in Crime No.29 of 2018, registered at Surgana Police Station, for the offences punishable under Sections 145, 147, 149, 327, 324, 323, 427 and 506 Indian Penal Code.

3 It is the case of the prosecution that one Jakir Sheru Shaikh lodged a report at the Police Station alleging therein that he is the proprietor of Chicken shop. On 18th June 2018, by his Passion-Pro motorcycle, he went to the weekly market of Hatgad and had purchased 46 hens from the different farmers. He had brought one wooden log and tied the hens horizontally. On the way, one unknown person had confronted him armed with telephone wire. The said unknown person was followed by applicant no.1 i.e. Mushir Shaikh, who was armed with wooden log. He was accompanied by another unknown person. The complainant was assaulted with telephone cable wire and wooden log. That they had threatened to kill him. In the meantime, there was an intervention and hence, he lodged a report.

4 Learned counsel for the applicants submits that in fact there is no motive attributed by the present applicants. It was a trifling quarrel on the road, which had occurred due to road rage and that the applicants have been falsely implicated.

5 The injury certificate would show that the complainant had sustained contusions and blunt trauma, which was described as simple in nature. From the description of the injuries, it cannot be said that they were caused by telephone cable wire or the wooden log. In view of the aforesaid observations, the applicant deserves pre-arrest bail.

6 However, the observations are restricted to application under Section 438 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial. Hence, the following order is passed :

ORDER

- i) The application is allowed.
- ii) In the event of arrest, the applicants be enlarged on bail on furnishing P.R. bonds in the sum of Rs.15,000/- each with one or more solvent sureties in the like amount.

iii) The applicants shall report to the concerned police station everyday from 10th August 2018 to 14th August 2018 between 10.30 am. o 1.00 pm. and co-operate the investigating agency.

(*Smt. Sadhana S. Jadhav, J*)