

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPTORY BAIL APPLICATION NO. 22 OF 2018**

1. Ejaj Ahmad Iqbal Ahmad Shaikh,
2. Muzammil Mohd. Shaikh,
3. Anis Mohammed Anwar Momin

...Applicants

Versus

The State of Maharashtra

...Respondent

WITH

ANTICIPTORY BAIL APPLICATION NO. 23 OF 2018

1. Mohd. Shamim Mohd. Yasin Momin
2. Yusuf Ibrahim Momin @ Yusuf Raza

...Applicants

Versus

The State of Maharashtra

...Respondent

Mr. Sanjeev Kadam a/w Mr. Balwant V. Salunkhe I/b Mr. Sachin B.
Chandan for the Applicants

Mr. V. V. Gangurde, A.P.P for the Respondent-State

Ms. Himneel Borse for the Complainant

CORAM : REVATI MOHITE DERE, J.
MONDAY, 15th JULY 2019

P.C.

1 Heard learned counsel for the parties.

2 By this application, the applicants seek pre-arrest bail in
connection with C.R. No. I-414 of 2017 registered with the Bhiwandi City

Police Station, Thane, for the alleged offences punishable under Sections 307, 326, 323, 324, 325, 143, 147, 148, 149 and 504 of the Indian Penal Code.

3 Perused the papers. According to the prosecution, the incident took place on 15th December 2017, when the complainant-Hashim Mohd. Shakir Ansari had gone to offer Isha Namaz at Quarter Gate Masjid, Bhiwandi. Since there was a meeting, the said Isha Namaz was kept at 10:00 p.m. It is stated that about 100 to 120 persons including the Maulanas of other Masjids from Bhiwandi had come to attend the said meeting. It is alleged that some of the applicants inquired with one of the person present in the said Masjid, as to why the said Isha Namaz was kept at 10:00 p.m instead of 9:00 p.m. It is alleged that pursuant thereto, Mr. Shakeel Raza informed them that the said decision was of Maulana Yusuf Raza and that they could inquire with him. The complainant accordingly went to Maulana Yusuf Raza and inquired about the same. It is alleged that some persons who were present there, got annoyed and started assaulting the complainant by fists and kick blows. Thereafter, the applicants intervened and they were also assaulted by the members of the complainant

group. According to the witnesses, the applicant-Mohd. Shamim Mohd. Yasin Momin assaulted the complainant's brother-Kasim Mohd. Ansari, as a result of which, he was severely injured and fell down. The applicant-Yusuf Ibrahim Momin @ Yusuf Raza is alleged to have instigated the assailants. As far as applicants in Anticipatory Bail Application No. 22 of 2018 are concerned, they are alleged to have assaulted the complainant and others by fist and kick blows.

4 It appears that the injured-Kasim Mohd. Ansari (complainant's brother) received a grievous injury on his head due to the assault by wooden log by applicant-Mohd. Shamim Mohd. Yasin Momin. It appears that Kasim Mohd. Ansari was unconscious for four days i.e. from 15th to 19th December 2017. It appears that applicant-Mohd. Shamim Mohd. Yasin Momin has several antecedents of a similar nature. Applicant-Yusuf Ibrahim Momin @ Yusuf Raza also has antecedents. The other three applicants have no antecedents.

5 Having regard to facts, the allegations against the three applicants in Anticipatory Bail Application No. 22 of 2018 is that they

assaulted the injured with fist blows. As far as applicant-Yusuf Ibrahim Momin @ Yusuf Raza is concerned, although there are antecedents *qua* him, the allegation in the present FIR is that he instigated the accused to assault the complainant and his brother.

6 As far as the applicant-Mohd. Shamim Mohd. Yasin Momin is concerned, considering his role i.e. of assault with a wooden log on Kasim's head and the nature of injury sustained by Kasim and keeping in mind his antecedents, this is not a fit case to grant pre-arrest bail to the said applicant.

7 However, considering the role assigned to the other applicants, their prayer for pre-arrest bail is granted, on the following terms and conditions :

ORDER

- (i) The application *qua* the applicant-Mohd. Shamim Mohd. Yasin Momin, is rejected;

- (ii) The applicants-Ejaj Ahmad, Muzammil Shaikh, Anis Momin, and Yusuf Momin @ Yusuf Raza, in the event of their arrest, be enlarged on bail on executing P.R. Bond in the sum of Rs.25,000/- each, with one or two sureties in the like amount;
- (iii) The applicants shall report to the Investigating Officer of the concerned Police Station as and when called;
- (iv) The applicants shall not tamper with the evidence or attempt to influence the complainant, witnesses or any person concerned with the case;
- (v) The applicants shall inform their latest places of residence and mobile contact numbers and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (vi) The applicants to cooperate with the investigating agency/conduct of the trial.

8 The applications are accordingly disposed of in the aforesaid terms.

9 It is made clear that the observations made herein are *prima facie*, for the purpose of deciding these applications.

10 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.