

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

ANTICIPATORY BAIL APPLICATION NO.2262 OF 2018

Arshad Hidayat Hussain Shaikh	.. Applicant
Vs.	
State of Maharashtra	.. Respondent

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Ms.Anjali Patil, Advocate for the Applicant.

Mr.Prashant Jadhav, APP for the Respondent – State.

Mr.Pramod C. Kamble, PI, Nirmal Nagar Police Station, Mumbai,
present.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 9, 2019.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.382 of 2015, registered with Nirmal Nagar Police Station, Mumbai, for the offences punishable under Sections 302, 307, 141, 143, 146, 147, 148, 149, 323, 504 and 506 of Indian Penal Code ("IPC", for short).

2 Heard learned counsel for the applicant and learned APP. Perused the charge-sheet.

3 One person by name Nashir Shaikh is deceased in C.R.No.381 of 2015, under Sections 302 and 504 read with 34 of IPC and the principal-accused in the present crime, namely, Shabbir Shaukat Hussain Shaikh and other accused persons were harbouring grudge against the deceased in the present crime, namely, Vikas Kamble and other injured witnesses on the ground that they are instrumental in commission of murder of Nashir Shaikh. Due to said grudge in the mind of the accused persons in the present crime, assaulted Vikas Kamble (deceased), Prashant Naik (injured witness) and Sagar Narwekar (injured witness) on 22nd December, 2015. After completion of investigation, the police have submitted charge-sheet. However, the applicant is stated to have been absconding since the date of commission of offence.

4 It appears that the first informant Sagar Narwekar in his report and the injured witness Prashant Naik in his statement under Section 161 of Cr.P.C. have not mentioned the name of applicant as one of the person forming the unlawful assembly in the present crime. In their supplementary statements dated 31st July, 2015, the said two witnesses have named the applicant as one of the person, who was present at the scene of offence and participated in assault on the deceased and injured witness Prashant Naik.

5 *Prima facie*, it appears that there is no specific overtact of the assault attributed to the applicant except the general statement that the applicant was the member of unlawful assembly in the present crime. The record indicates that the co-accused Asif Mohammad Meera Shikh, who has been attributed with the same and/or similar role has been granted pre-arrest bail by the learned Additional Sessions Court, Greater Bombay in ABA No.709 of 2017, vide order dated 12th May, 2017.

6 Co-accused Rafiq Ahmed Shaikh has been granted anticipatory bail by this Court vice order dated 15th January, 2018, passed in Anticipatory Bail Application No.1732 of 2017. The role attributed to the applicant and the said accused is identical. Considering the aforesaid circumstances, interim order granted earlier deserves to be confirmed.

7 Hence, I pass the following order:

:: ORDER ::

- (i) In the event of arrest of the applicant in connection with C.R.No.382 of 2015, registered with Nirmal Nagar Police Station, Mumbai, he be released on

bail on his furnishing P.R. Bond in the sum of Rs.50,000/-, with one or more sureties in the like amount;

(ii) Applicant shall attend the Nirmal Nagar Police Station, Mumbai as and when called for by the investigating officer, till filing of charge-sheet;

(iii) Applicant shall attend the trial Court on the date of hearing regularly, unless exempted by the Court;

(iv) Applicant shall not tamper with the evidence and /or pressurize the prosecution witnesses;

(v) Anticipatory Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)