

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPTORY BAIL APPLICATION NO. 2347 OF 2018**

1. Noor Ali Barkat Ali	
2. Saif Ali Barkat Ali	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr. C. R. Mishra I/b Mr. Pradeep L. Dubey for the Applicants

Ms. P. P. Shinde, A.P.P for the Respondent-State

PSI Mr. Rajesh L. Jagdade from Sakinaka Police Station, is present

CORAM : REVATI MOHITE DERE, J.
MONDAY, 1st 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. 604 of 2018 registered with the Sakinaka Police Station, Mumbai, for the alleged offences punishable under Sections 326, 324, 452, 427, 506 (ii), 504, 34 of the Indian Penal Code.

3 Perused the papers. According to the prosecution, the incident took place on 9th August 2018 at about 11:00 a.m. It is alleged by the

complainant-Mohsin that he, along with his brother-Nadeem were present in the shop i.e. S. S. Service. It is alleged that the applicant came to the shop at about 4:45 p.m and abused his brother-Nadeem and started assaulting him with fist blows. It is alleged that when the complainant intervened, the applicant threatened the complainant and Nadeem and left the place. Thereafter, the applicant is alleged to have come with his brother-Saif Ali and one unknown person. The said person allegedly entered the shop and started assaulting Nadeem by fist and kick blows. It is alleged that when the complainant intervened, co-accused Saif Ali (applicant No.2) assaulted the complainant with a knife and the unknown person also assaulted the complainant with an iron rod on his left leg. The accused persons are thereafter alleged to have fled from the spot.

4 Learned counsel for the applicants has tendered a copy of the order of the Sessions Court dated 2nd November 2018 passed in Anticipatory Bail Application No. 1368 of 2018, by which, the learned Sessions Judge was pleased to reject the applicants' anticipatory bail application. The same is taken on record.

5 Learned A.P.P, on instructions, states that considering the nature of injuries, Section 326 has been dropped and Section 324 has been applied to the said case. He further submits that the applicants have one antecedent.

6 A perusal of the complaint shows that the applicant No.1 is alleged to have assaulted the complainant with fist and kick blows and applicant No. 2 is alleged to have assaulted with a knife. All the injuries are stated to be simple injuries.

7 Considering the aforesaid, custodial interrogation of the applicants is not warranted. The interim order of this Court dated 12th December 2018 is confirmed and the applicants are granted pre-arrest bail, on the following terms and conditions:

ORDER

- (i) In the event of the arrest, the applicants be enlarged on bail on executing P.R. Bond in the sum of Rs.15,000/- each, with one or two sureties in the like amount;

- (ii) The applicants shall report to the Investigating Officer of the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m, till the conclusion of the trial;
- (iii) The applicants shall not commit a similar or other offence, in future;
- (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 place 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.

8 The application is accordingly disposed of.

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

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

REVATI MOHITE DERE, J.