

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 18 OF 2020

Zaidakber Arif Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

WITH

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2849 OF 2019

Sharique Wasi Sayyed	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Hassnain Kaazi Sayyed a/w Ms. Shraddha Vavhal i/b
R. K. Shaikh, Advocate for the Applicant.
Mr. S. S. Pednekar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 21st February, 2020.

PC :

1. This is an application for anticipatory bail in C.R. No. 1175 of 2019 registered with Pimpri Police Station, Pimpri Chinchwad, Dist.Pune for offences punishable under Sections 324, 506, 427, r/w Section 34 of Indian Penal Code and Section 4(25) of Indian Arms Act and Sections 37(1) & 135 of Maharashtra Police Act.
2. The alleged incident had occurred on 6th December, 2019. The FIR was lodged on 7th December, 2019. It is alleged that the accused were armed with weapons and they assaulted the complainant and his brother. The applicant No.1 Zaidakber Arif Shaikh was allegedly

holding wooden log. The FIR did not contain the name of the applicant Sharique Wasi Sayyed.

3. Learned advocate for the applicant submitted that no role has been assigned to the applicant Sharique Wasi Sayyed and his name is not referred in the FIR. The applicant Zaidakber Arif Shaikh was attributed role of assault by wooden log and the injuries were simple. It is further submitted that offences are of bailable nature. Sections 395 and 397 were added subsequently. The version of the witnesses is after thought.

4. Learned APP submitted that statement of Amit More was recorded on 7th December, 2019 in which he has stated that the accused had assaulted him. Gold chain and cash of Rs. 60,000/- were taken away by them. Hence, Sections 395 and 397 of Indian Penal Code were invoked. It is pertinent to note that the complainant in his statement has referred to assault upon Amit. However there is no reference of the golden chain being snatched by the accused and cash of Rs. 60,000/- being taken away by them. Thus, prima facie invocation of the provisions of Sections 395 & 397 appears to be doubtful. Taking into consideration the aforesaid circumstances the applicants need not be subjected to judicial custody. Hence, I pass the following order.

ORDER

- i) Anticipatory Bail Application No. 18 of 2020 & 2849 of 2019 are allowed;
- ii) In the event of arrest of applicants in C.R. No. 1175 of 2019 registered with Pimpri Police Station, Pimpri Chinchwad, Dist.Pune the applicants be released on bail on furnishing P R. Bond in the sum of Rs.25000/-, each with one or more sureties in the like amount;
- iii) The applicants shall attend Investigating Officer on 4th, 5th & 6th March, 2020 between 11.00 a.m. to 1.00 p.m. and thereafter as and when called for till filing of charge-sheet.
- iv) The applicants shall not tamper with the evidence.
- v) Both Anticipatory Bail Applications stand disposed of accordingly.

(PRAKASH D. NAIK, J.)