

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 740 OF 2021

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| 1. | Riyaz s/o Gani Shaikh
Age 48 years, Occu: Agri | ... | Applicants |
| 2. | Rihana w/o Yasin Shaikh
Age 44 years, Occu: Agri& Houshold | | |

Both r/o at Post Salbatpur
Tq. Newasa, Dist. Ahmedngar.

VERSUS

The State of Maharashtra,	...	Respondent
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Mr. Govind A. Kulkarni h/for Mr. Devang R. Deshmukh, Advocate for the applicants,
Mr. A. V. Deshmukh, A.P.P. for the State.

CORAM	: V. G. BISHT, J.
DATE	: 12th August, 2021.

ORDER:

1. This is an application under section 438 of the Code of Criminal Procedure, 1973 preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No.0361/2021, registered with Newasa Police Station, Taluka Newasa District Ahmednagar for the offences punishable under Sections 353, 332, 188, 269, 270, 504, 506, 34 of the Indian Penal Code, 1860, Sections 2, 3 and 4 of the Epidemic Disease Act, 1897, section 51B of the Disaster Management Act and 5(a)(1), 9 of the Prevention of Cruelty to Animals Act, 1960.

2. It is the prosecution's case that in the wee hours of 27.05.2021, accused namely Rehan Yasin Shaikh and Yasin Gani Shaikh were allegedly carrying beef and they were apprehended by police on the tip-off. Upon being apprehended, the present applicants accused also came on the spot and started abusing the police personnel and thus caused annoyance and deterred the police personnel from discharging their duties.

3. Mr. Govind A. Kulkarni, learned counsel for the applicants, vehemently submits that the first information report, if read as a whole, does not attract the ingredients of section 353 IPC. Moreover, the first information is lodged after delay of twenty hours and the same is nowhere explained. This being so, the interim relief granted by this Court on 16.07.2021 needs to be confirmed.

4. Mr. A. V. Deshmukh, learned A.P.P., on other hand, took me through the contents of the first information report and forcefully submitted that the present applicants not only hurled abuses on police personnel but also deterred them from discharging their duties and thus prima facie committed offence under section 353 IPC.

5. While granting interim protection, this Court (Coram Sandeep K. Shinde, J.) had its own apprehension as to the applicability of section 353 IPC. I have also carefully gone through the allegations made in the first information report and this Court is also of the opinion that prima

facie, the complaint falls short of ingredients or necessary requisites of offence under section 353 IPC.

6. Apart from above, there is no dispute that the main accused who had been apprehended by the police have already been released on bail. The case is of not such nature where custodial interrogation is required. Thus, the totality of the facts and circumstances of the case warrants allowance of the present application.

7. For the aforesaid reasons, the interim relief granted by this Court on 16.07.2021 is made absolute and is confirmed.

8. The application stands disposed of accordingly.

(V. G. BISHT, J.)

JPC