

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

ANTICIPATORY BAIL APPLICATION NO. 873 OF 2021

Shaikh Zameeruddin @ Sk. Jameer s/o Sk. ... **Applicant**
Faqrudin Patel
Age 45 Years, Occu: Business,
R/o Swami Vivekanand Nagar,
Hudco, N-12, Aurangabad

VERSUS

The State of Maharashtra, ... **Respondent**
Through the Police Inspector,
Begumpura Police Station, Aurangabad
District Aurangabad.

**WITH
ANTICIPATORY BAIL APPLICATION NO. 916 OF 2021**

Shaikh Hamza s/o Sk. Zameer ... **Applicant**
Age 18 Years, Occu: Student & Pvt.
Employment,
R/o Swami Vivekanand Nagar,
Hudco, N-12, Aurangabad

VERSUS

The State of Maharashtra, ... **Respondent**
Through the Police Inspector,
Begumpura Police Station, Aurangabad
District Aurangabad.

Mr. Angad L. Kanade, Advocate for the applicants,
Mr. V. S.Badakh, A.P.P. for the State.

**WITH
ANTICIPATORY BAIL APPLICATION NO. 855 OF 2021**

Shaikh Imran s/o Abdul Sattar ... **Applicant**
Age 30 Years, Occu: Pvt. Service,
R/o H.No.8-10-42, Lane No.2,
Mujeeb Colony, Roshan Gate, Aurangabad

VERSUS

The State of Maharashtra,
Through the Police Inspector,
Begumpura Police Station, Aurangabad
District Aurangabad.

... **Respondent**

Mr. Saeed S. Shaikh, Advocate for the applicant,
Mr. V. S.Badakh, A.P.P. for the State.

CORAM : V. G. BISHT, J.
RESERVED ON : 9th September, 2021
PRONOUNCED ON : 16th September, 2021

ORDER:

1. These are applications 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.82/2021 registered with Begumpura Police Station, Aurangabad, District Aurangabad for the offences punishable under Sections 308, 452, 354, 324, 143, 147, 148, 149, 323, 504, 506, 427, 188, 269, 270, 290 of the Indian Penal Code, 1860.

2. It is the case of prosecution that on 02.04.2021, at about 9.30 p.m., accused Hamza Zameer Patel (applicant), Mohd. Haroon Mohd. Yusuf, Samir, Abdul Hamid Abdul Rashid, Mohd. Khaled Mohd. Yusuf, Shaikh Jameer Shaikh Fakroddin Patel (applicant), Shaikh Imran Abdul Sattar (applicant), Mujahid alongwith 20-25 unknown persons came to the house of the informant armed with sticks and stones and started shouting and abusing and were asking the informant and his family members to leave the house as the land belongs to them. They also

started pelting stones. It is further alleged that applicant Shaikh Hamza s/o Sk. Zameer along with other accused broke open the door with the help of iron rod and forcibly committed house trespass and then dragged the family members of the informant out of the house and assaulted the informant's brother-in-law namely Meer Azar Ali, Meer Nisar Ali by fist and kick blows. Similarly, her nephews Meer Asim Ali and Meer Wasim Ali were also assaulted by means of wooden log and cricket bat. Accordingly, the informant lodged the report.

3. Mr. Angad L. Kanade and Mr. Saeed S. Shaikh, learned counsel for the applicants, submit that informant's family members had unauthorizedly and illegally committed encroachment on the Waqf property and to that effect a complaint dated 07.08.2020 was lodged with Police Station Officer, Begumpura Police Station, Aurangabad and because of that the present applicants have been falsely implicated. According to the learned counsel, the other accused have already been given benefit of anticipatory bail by the learned trial Court. Moreover, the alleged injuries suffered by prosecution witnesses were simple in nature. There are no antecedents and the applicants are ready to cooperate in the investigation and in such circumstance, applications deserve to be allowed, urged learned counsel.

4. Mr. V. S. Badakh, learned A.P.P., on the other hand, would oppose the submissions by contending that not only the applicants alongwith other accused formed unlawful assembly but also committed

criminal house trespass and assaulted family members of the informant and thus caused injuries to the prosecution witnesses. There are eye witnesses to the incident who support the incident. Learned A.P.P. invited my attention to the statements of witnesses from the investigation papers as also the medical certificates and would submit that investigation is in progress and in such circumstance, the present applications should not be considered at all.

5. Perusal of the first information report would show that all the applicants alongwith others committed house trespass with preparation to assault the family members of the informant. It is alleged that nephews of the informant namely Meer Asim Ali and Meer Wasim Ali were assaulted by means of wooden log and cricket bat. I have also gone through the investigation papers and more particularly injury certificates of Meer Asim Ali and Meer Wasmi Ali. The injury certificates clearly show that both of them had sustained simple injuries. There is also no dispute to the fact that the other accused have already been admitted on pre-arrest bail.

6. In view of above facts and circumstances and keeping in mind the injury certificates, I am inclined to allow the present applications with certain conditions. Hence following order.

O R D E R

- i. In the event of arrest of the applicants in connection with Crime No.82/2021 registered with Begumpura Police Station,

Aurangabad, District Aurangabad for the offences punishable under Sections 308, 452, 354, 324, 143, 147, 148, 149, 323, 504, 506, 427, 188, 269, 270, 290 of the Indian Penal Code, 1860, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.20,000/-[Rs. Twenty thousand only] each, with one or two solvent sureties in the like amount.

- ii. The applicants shall attend concerned police station as and when called and shall cooperate with the police in the investigation.
 - iii. The applicants shall not tamper with prosecution evidence in any manner.
7. Applications stand disposed of in the aforesaid terms.

(V. G. BISHT, J.)

JPC