

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

ANTICIPATORY BAIL APPLICATION NO. 1257 OF 2021

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| 1. | Sk. Idrees s/o Sk. Rabhani
Age 30 years, Occu: Private Service,
R/o Plot No.6 Heena Nagar,
Rashidpura, Aurangabad | ... | Applicants |
| 2. | Syed Sameer s/o Sayed Abid
Age 45 years, Occu: Private service,
R/o House No.8-14-60, Near Imaad
Masjid Hawa Manzil, Mujeeb Colony,
Roshangate, Aurangabad | | |

VERSUS

The State of Maharashtra, Through Police Inspector, Begumpura Police Station, Aurangabad.	...	Respondent
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Mr. Angad L. Kanade, Advocate for the applicant,
Mr. A. V. Deshmukh, A.P.P. for the State.

CORAM	: PRAKASH D. NAIK, J.
DATE	: 21st December, 2021

ORDER:

1. This application under section 438 of the Code of Criminal Procedure, 1973 is preferred by the applicants seeking 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, Mohd. Haroon Mohd. Yusuf, Samir, Abdul Hamid Abdul Rashid, Mohd. Khaled Mohd. Yusuf, Shaikh Jameer Shaikh Fakroddin Patel, Shaikh Imran Abdul Sattar Mujahid alongwith 20-25 unknown persons came in front of house of the informant armed with iron rod, 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 road 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. Co-accused Shaikh Zameerudin @ Shaikh Jameer, Shaikh Hamza s/o Shaikh Zameer and Shaikh Imran Abdul Sattar were granted protection under Section 438 of the Code of Criminal Procedure by this Court vide order dated 16th September 2021.

4. The role attributed to applicant No. 1 and the co-accused who have been granted protection under Section 438 of the Code of Criminal

Procedure, appears to be identical. The additional allegation against applicant No. 2 is that he was involved in outraging modesty. The contention of the learned Counsel for the applicants is that about 10 persons are named in the First Information Report and several other persons who are not named are implicated in this case. The allegation of outraging modesty is false and concocted.

5. Learned APP submits that applicant No.2 is additionally charged with offence under section 354 IPC. Hence, the order granting relief to co-accused can be distinguished. The FIR was lodged against the 10 persons who are named and there is involvement of 25 unknown persons. The allegations appear to be doubtful. Co-accused were granted anticipatory bail by this Court by order dated 16.09.2021. In the facts of this case, interim relief granted to the applicant by order dated 25.10.2021 can be confirmed. The applicants need not be subjected to custodial interrogation.

6. Hence, I pass the following order :

ORDER

- i. Anticipatory Bail Application No. 1257 of 2021 is allowed.
- ii. In the event of arrest of the applicants in connection with Crime No.82/2021 registered with Begumpura Police Station, Aurangabad, District Aurangabad, the applicants be enlarged on bail on

furnishing PR Bond in the sum of Rs. 20,000/- each, with one or two sureties in the like amount.

- iii. The applicants shall appear before the Investigating Officer on 29th and 30th of December, 2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called by the I.O. till filing of charge sheet.
- iv. The application stands disposed of.

(PRAKASH D. NAIK, J.)

JPC