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

**ANTICIPATORY BAIL APPLICATION NO.1216 OF 2022
WITH APPLN/3058/2022**

**SHAIKH ALTAF SHAIKH HABIB
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. Mujtaba Gulam Mustafa h/f Mr. Zia Ul
Mustafa

APP for Respondent/State : Mr. K.S. Patil
Advocate for Complainant : Mr. S.A. Kulkarni

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CORAM : S.G. MEHARE, J.

DATED : 22nd SEPTEMBER, 2022

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State with learned counsel assisting the learned APP.
2. It has been alleged against the applicant that he is the partner of the injured. On the day of incident for the reason of running the battery shop, suddenly the applicant came from behind and assaulted him with iron rod again and again. He has sustained the serious injury to his head. He was immediately hospitalized.
3. Learned counsel for the applicant would argue that the reasons for rejection of anticipatory bail given by the Sessions Court are erroneous. Only for the recovery of cloth, the anticipatory bail has been rejected. This is an application under Section 438 of the Criminal Procedure Code. It is neither the appeal nor the revision

against the orders passed by the learned Sessions Court under Section 438 of the Criminal Procedure Code. However, he added that there is absolutely no reason for assault is given in the FIR. There was delay in lodging the FIR. The applicant was the partner of the injured. The applicant has a good case for anticipatory bail.

4. Learned APP and learned counsel assisting the learned APP have strongly opposed the application contending that the applicant was seriously injured. All injuries were grievous. There are witnesses to the incident. The weapon iron rod is yet to be recovered. The offence is serious hence, anticipatory bail may be refused.

5. Perused the FIR. There is clear allegations against the applicant that he assaulted the injured on the reason of running the battery shop. It is not in dispute that the injured and the applicant were partners. The injury report placed on record by the investigating officer reveals that the injured has suffered serious and grievous injuries. The eye witnesses are also there. It has also been specifically alleged against the applicant that he assaulted the injured with iron rod. In such circumstances, the recovery of the iron rod is essential. Considering the allegations levelled against the applicant and the injuries suffered by the injured, the applicant has no case for anticipatory bail. Hence, the application stands dismissed.

6. Criminal Application No.3058 of 2022 stands disposed of.

(S.G. MEHARE, J.)

Mujaheed//