

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

**ANTICIPATORY BAIL APPLICATION NO. 833 OF 2023
WITH CRIMINAL APPLICATION NO. 2172 OF 2023**

**HAMJA SHAUKATALI SHAIKH AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA**

Mr. N. B. Narwade, Advocate for the applicants
Mr. V. S. Badakh, APP for the respondent/State
Mr. N. J. Pahune Patil, Advocate for the informant

CORAM : R. M. JOSHI, J.
RESERVED ON : 23/06/2023
PRONOUNCED ON : 30/06/2023

ORDER :-

1. Applicants apprehend arrest in connection with Crime No. 369/2023 registered with Kotwali Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 324, 326, 504, 506 read with 34 of IPC and Section 37(1), 135 of Maharashtra Police Act.
2. Dipak Nawlani gave information to the Police by stating that on 14/04/2023 at about 3.00 pm an incident occurred when he has requested applicant No.1 to remove the barricading laid front of the shop of the informant. At that time applicant No.1 and his brother threatened him that they would see him. At that time another shop owner Rijwan Shaikh came to the spot and quarreled with informant. It

is stated that he did not lodge a complaint against them since applicant No.1 apologized to him. Thereafter at about 5.15 pm when he was standing in front of his shop along with friend, Hammar Shaikh, son-in-law of Rajwan came and said to him that he has messed up with wrong persons and also alleged that he is causing harassment to them. Thereafter he assaulted informant on his chest and stomach with sharp edged weapon. In the said assault he sustained injury. On the basis of these allegations offences came to be registered against present applicants and others.

3. Learned counsel for the applicants states that admittedly the applicants are not assailants in the said incident. He contends that the applicant No.1 in fact had apologized to the informant which shows that there was no malice held in his mind against informant. He submits that nothing is to be recovered at the instance of present applicants and as they have clean record, hence their liberty deserve to be protected.

4. Learned APP as well as learned counsel for the informant opposed the said submission by stating that there are statements of the witnesses which indicate that the assailants caused assault on the informant owing to the incident occurred on the same day in the afternoon. He further submits that statements of the witnesses show

that at instance of present applicants assailant caused assault on the informant and hence it is not fit case to grant anticipatory bail to them.

5. Perusal of the first information report shows that some incident did occur on a fateful day in the afternoon wherein quarrel took place between applicants and informant. It is however clearly stated therein that applicant No.1 apologized to him and therefore no complaint was lodged. It pertinent to note that the assailant is son-in-law of Rijwan who also was involved in the said initial quarrel. First information report does not indicate that the said Rijwan had expressed any regret about the incident of quarrel and on other hand the applicant No.1 definitely has tendered his apology to the informant. In such circumstances the incident of assault caused by the son-in-law of Rijwan can not be attributed to the present applicants. Applicants have no criminal antecedent. Nothing is to be recovered at their instance. Hence it is fit case to enlarge them on pre-arrest bail. Hence application is allowed.

ORDER

(i) In the event of arrest of applicants in connection with Crime No. 369/2023, registered with Kotwali Police Station, Dist. Ahmednagar for the offences punishable under Sections 307, 324, 326, 504, 506 read with 34 of IPC and Section 37(1), 135 of Maharashtra Police Act, they shall be released on bail on furnishing PR Bond of Rs.15,000/- (Rupees Fifteen Thousand only) each with

one solvent surety in the like amount.

(ii) They shall attend the concerned police station once in a week till filing of the charge-sheet.

(iii) They shall not contact the witnesses directly or indirectly.

(iv) They shall not interfere with the evidence in any manner whatsoever.

(v) They are further directed to cooperate the investigating agency for further investigation.

(vi) Pending applications, if any, stand disposed of.

(R. M. JOSHI, J.)

ssp