

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

ANTICIPATORY BAIL APPLICATION NO.1237 OF 2023
WITH ABA/1252/2023

SAMIR SHAFI SAYYED AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants in ABA/1237/2023: Mr. M. A.
Madni

Advocate for Applicant in ABA/1252/2023: Mr. V. B.
Jagtap

APP for Respondents: Mrs. G. L. Deshpande

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CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 13, 2023

PER COURT :

1. Applicants apprehend arrest in connection with with C.R. No. 178 of 2023 registered with Kotwali Police Station, Dist. Ahmednagar for the offences punishable under Sections 143, 147, 148, 149, 307, 341, 324, 323, 504, 506 of the Indian Penal Code and Section 4/25 of the Arms Act.

2. FIR shows that an incident had occurred on 21.02.2023 at around 08.40 pm. It is contention of informant that accused along with present Applicants came to the spot. They threatened him. It is alleged that all of them were having weapons and that some of the

accused persons caused actual assault on him.

3. Learned Counsel for the Applicants submits that though the name of the Applicants are appearing in the FIR, however, there is no allegation that they committed any overt-act in this crime.

4. Learned APP opposed the application by contending that as per FIR as well as statement of witnesses both Applicants were holding weapon in their hands and they caused assault on the informant. As far as the Applicant – Irfan is concerned, learned APP has pointed out that there are as many as 9 offences registered against him and hence, it is not a case of grant of anticipatory bail.

5. Learned Counsel for this Applicant submits that out of these offences, in three crimes he is already acquitted, however, he is unable to make any statement of the crime of year 2001.

6. Perusal of the FIR though mentions the name of the present Applicants, however, what has been recorded therein that at the instance of co-accused present Applicants also came to the spot. There is no specific

allegation against them that they were holding any weapon and caused actual assault on him. On the other hand, informant specifically attributed role to the co-accused who had caused assault on him with sword.

7. In view of the fact that there are no specific allegations against the present Applicant of causing actual assault on the informant, it would be a fit case for grant of anticipatory bail. With regard to the objection raised against Applicant – Irfan showing antecedents against him, as pointed out by Counsel for this Applicant that he has been acquitted in three cases.

8. Having regard to the facts and circumstances of the case, this Court finds it to be not an impediment to grant anticipatory bail. Hence, applications are allowed by confirming order dated 27th July, 2023.

(R.M. JOSHI, J.)

Malani