

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO. 119 OF 2023
WITH
INTERIM APPLICATION NO. 957 OF 2023**

1. Sameer Salim Sayyed
2. Rashid Ansarul Shaikh &
3. Taufiq Ansarul Shaikh

..Applicants

v/s.

The State of Maharashtra .

..Respondents

Mr. A.A.Siddiquie i/b. A.A.Siddiquie & Associates for the Applicant.
Mr. Rajesh Khobragade for the Intervenor
Mr. Shrikant Yadav, APP for the State.

**CORAM : ANUJA PRABHUDESSAI ,J.
DATED : 23rd MARCH, 2023.**

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid Applicants apprehending their arrest in C.R.No.1178 of 2022, registered with Nirmal Nagar Police Station for offences under Section 326, 324, 323, 504 and 506 r/w. 34 of the Indian Penal Code.

2. Heard learned Counsel for the Applicant, learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The aforesaid crime was registered pursuant to the FIR lodged by

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Salim Yasin Qureshi. A perusal of the FIR prima facie reveals that there was an altercation between the co-accused Salman Salim Sayed and one Yusuf Shaikh and Faizan, the son of the first informant. It is stated that the first informant and his wife had also come to the place of the incident and tried to intervene, and told both the parties not to quarrel. It is stated that while they were returning home, the Applicants came to the spot of incident. They abused and started assaulted them by kicks and blows. He has stated that the Applicant Rashid caught hold of him and the Applicant Taufiq hit him with a paver block on his face, whereas co-accused Salman inflicted a blow of iron rod on his head. He has stated that his wife had also sustained injuries on her face. It is stated that the Applicants as well as the co-accused Salman had also assaulted his wife, son Faizan and Yusuf Shaikh.

4. The material on record reveals that Shabana had sustained grievous injuries. Her statement reveals that the said injury was caused by the Applicant Rashid by giving fist blow on her face. The injuries sustained by the other two injured persons are simple in nature. The material on record does not indicate that these Applicants were armed with dangerous weapons or that they had inflicted injuries by means of any weapon as specified under Section 326 of IPC. Hence, prima facie offence under Section 326 is not made out. The other offences are bailable.

5. Considering the above facts and circumstances, in my considered view, this would be a fit case to exercise discretion under Section 438 of Cr.P.C. Hence the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicants in Crime No.1178 of 2022, registered with Nirmal Nagar Police Station, the Applicants be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twentyfive Thousand Only) each with one or two sureties in the like amount.
- (ii) The Applicants shall report to the Investigating Officer as and when required by the Investigating Officer.
- (iii) The Applicants shall keep the Investigating Officer informed of their current address and mobile/contact details, and/or change of residence or mobile/contact details from time to time.
- (iv) The Applicants shall not interfere with the Complainant and the other witnesses, or tamper with the evidence in any manner.
- . Application stands disposed of.
- . Interim application stands disposed in view of disposal of the Anticipatory Bail Application.

(ANUJA PRABHUDESSAI, J.)

