

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

ANTICIPATORY BAIL APPLICATION NO.921 OF 2023

1. Ashfaqullah Rafiullah
2. Mohammad Fahim Mohammad
Naim Khan ...Applicants

Versus

The State of Maharashtra ...Respondent

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Mr. A.A. Siddiqui i/b. M/s. A.A. Siddiqui and Associates for the
Applicant.

Mr. S.V. Gavand, APP for Respondent-State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 29th MARCH, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicants apprehending their arrest in C.R. No.43 of 2019 registered with Mankhurd Police Station, Mumbai, for the offences punishable under Sections 141, 143, 147, 148, 324, 326, 504 r/w 149 of the IPC and Sections 37(1)(A) r/w 135 of the Maharashtra Police Act.

2. Heard Mr. Siddiqui, learned counsel for the Applicant and Mr. Gavand, learned APP for the Respondent -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 Shoeb Ahamad Jamil Ahmad Qureshi. The allegations against the Applicant are that he alongwith the co-accused formed an unlawful assembly armed with deadly weapons and that they had inflicted grievous injuries on the Complainant-Shoeb.

4. It is pertinent to note that the Applicants had filed an application for pre-arrest bail before the Sessions Court in the year 2019. The said application was rejected on 01/08/2019. The Applicants did not file any application before this Court. On the contrary, the records reveal that they were absconding. Charge-sheet has been filed wherein the Applicants have been shown as absconding accused. It is only after filing of the charge-sheet that the Applicants have filed an application for pre-arrest bail claiming that recovery has been made and that their presence is not required for custodial interrogation.

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Having considered the entire material on record and particularly the conduct of the Applicants, I am not inclined to exercise

discretion under Sections 438 of the Cr.P.C. in favour of the Applicants.

Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)