

VRJ

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

ANTICIPATORY BAIL APPLICATION NO.1725 OF 2023

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Talib Shakil Shaikh

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Sujit S. Alhat for the applicant.

Mr. Amit A. Palkar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 9, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.154 of 2023 registered with Khadki Police Station, Pune for offences punishable under sections 326, 324, 323, 504 read with section 34 of the Indian Penal Code, 1860, the applicant has filed present anticipatory bail application seeking relief of pre-arrest bail under section 438 of the Criminal Procedure Code, 1973.

2. According to the prosecution, the complainant Salim Amit Pathan on 17th May 2023 was doing cleaning work, while doing so he was sprinkling water so that the dust wont be spread, at the same time while spraying water some water was spilled on Fardin Shaikh. The complainant told this incident to the Grandmother of Fardin Shaikh, at that time, uncle of Fardin namely Talim Shakil Shaikh came from behind and pulled the hair of the complainant

and dragged him on the floor and started hitting with fist and kicks, nephew of Fardin namely Irfan Rashid Shaikh came with wooden stick and started hitting the complainant on hand and back of the complainant. During the time of fight, Talim Shaikh hit the complainant on head with tile, thereafter, Ali Hasan Shaikh came with iron rod and hit the complainant on his leg. Accordingly, report was registered.

3. The applicant applied for relief under section 438 of the Criminal Procedure Code, 1973. The Sessions Judge by order dated 7th June 2023 rejected the application.

4. On perusal of the case papers and material on record, it appears that specific role is attributed to the applicant. Role attributed to the applicant is of assault on informant's head by using tile. Considering the injuries caused on the vital part, no relief can be granted in favour of the applicant.

5. In so far as the contention of the applicant that there was no incident and the applicant was falsely implicated, I have perused the injury certificates as regards the earlier incident and present incident. On perusal of both the injury certificates, it is clear that the injuries and part affected are different. Therefore, no case for grant of relief under section 438 is made out.

6. The anticipatory bail application is, therefore, rejected.

(AMIT BORKAR, J.)