

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO. 1802 OF 2023

Firoz Khan Sultan Khan & Anr.	... Applicants
V/s.	
The State of Maharashtra	... Respondent

Mr. Anandmaya S. Dhorade, for the Applicant.

Mr. Pandurang H. Gaikwad, APP for the State-Respondent.

Mr. Sunil Aher, PSI, Malegaon police station, Nashik.

CORAM : AMIT BORKAR, J.

DATED : JUNE 28, 2023

P.C.:

1. The learned Advocate for the applicant No.1 on instructions seeks permission to withdraw the application of applicant No.1 Firoz Khan Sultan. Permission is granted to withdraw the application.
2. The anticipatory bail application of applicant No.1 Firoz Khan Sultan is dismissed as withdrawn.
3. In so far as, the applicant No.2 is concerned. Apprehending arrest in connection with C.R.No.101 of 2023 registered with Malegaon City police station, Nashik for offences punishable under Sections 326, 323, 504, 506 r/w 34 of the Indian Penal Code, 1860 (for short 'IPC'), the applicant No.2 is seeking relief of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.').
4. According to the prosecution, on 6 May 2023 at about 8:30

pm when the informant returning from Malegaon , he received a cick blow from his behind. The applicants along with other co-accused arrived at spot in car holding iron rod and pipes. They assaulted the informant on head and chest. Looking to the crowd, they fled from the spot. The informant lodged report against the applicant. The applicant, therefore, filed application under Section 438 of Cr.P.C. before learned Sessions Judge which came to be rejected by order dated 8 June, 2023. Hence, the present application.

5. I have perused the report and case papers. The injury certificate indicates the grievous injury on head. The role attributed to applicant is assaulted on right side of head and on chest of the informant. Prima facie, appears that grievous injury is not connected with the allegations of assault against applicant No.2. Hence, applicant No.2 has made out the case to relief of pre-arrest bail under Section 438 of Cr.P.C. Therefore, custodial interrogation of the applicant No.2 is not required. Hence, following order:

a) In the event of arrest of applicant No.2, Arbaaz Khan Tanvir Khan in connection with C.R. No.101 of 2023 registered with Malegaon City police station, Nashik for offences punishable under Sections 326, 323, 504, 506 r/w 34, be released on bail on furnishing P.R. bond of Rs.25,000/-, along with one or two sureties in the like amount.

b) The applicant No.2 shall remain present before the

concerned police station on 30th June, 2023, 3rd and 5th July 2023 between 11:00 am to 2:00 pm thereafter, as and when called by the investigating officer.

c) The applicant No.2 shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

d) The applicant No.2 shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

e) The applicant No.2 shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the Court concerned, and shall not change the residence till the final disposal of the case.

6. The anticipatory bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)