

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

ANTICIPATORY BAIL APPLICATION NO. 2015 OF 2023

Moharam Daud Shaikh

... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. S.K. Ali i/b. A.A. Siddiqui and Associates for the Applicant.

Mr. S.V. Gavand, APP for the State.

Mr. Surve, PSI, Deonar Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 20th JULY, 2023.

P.C. :-

. The Applicant apprehends his arrest in C.R.No.60/2023 registered with Deonar Police Station, Mumbai for offences punishable under sections 143, 147, 148, 307, 326, 506 r/w. 149 of the Indian Penal Code, sections 4, 25 and 27 of Indian Arms Act and sections 37(1)(a), 135 of Maharashtra Police Act.

2. The aforesaid crime was registered pursuant to the FIR lodged by Mohammad Salim Salmani, the father of the injured. The facts narrated in the FIR prima facie reveal that on 26/02/2023, the Applicant and others had assaulted his son by means of sword, stick, knife, etc. The statement of the injured prima facie reveals that he had

seen the co-accused breaking the glass of the auto-rickshaw owned by one Akbar and that the co-accused had threatened him. He has stated that the co-accused – Moin Shaikh also intervened and he inflicted a blows of sword on his legs, waist, abdomen, etc. The injured has further stated that the Applicant and other co-accused also assaulted him. He claims that the Applicant had inflicted an injury on his head by a wooden stick. The medical certificate reveals that the injured had sustained five injuries on vital parts of the body and two injuries are stated to be grievous in nature.

3. Learned counsel for the Applicant states that the learned Sessions Judge had granted bail to the co-accused Hasan Khan and Moin Shaikh and that the Applicant is entitled for bail on the ground of parity. A perusal of the said order reveals that the bail has been granted on the premise that the victim had not named the said accused in the first statement and that they were implicated only in the supplementary statement. The said observations are incorrect and contrary to the record since the victim had named the co-accused in the statement recorded on 05/03/2023 and had specifically stated that the accused was involved in inflicting injury by means of sword.

4. In the light of the above facts and circumstances and considering the nature of the offence and the material in support thereof, this would not be a case to exercise discretion under section 438 of Cr.P.C. Hence, the Application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

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