

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

Anticipatory Bail Application No.1744 of 2024

1. Masiuddin Samiuddin Khan
Age about 44 years, Occ: Business,
Residing at Room No.03,
Konkan Complex, Shivaji Nagar,
Mumbra, Thane – 400 612

... Applicants
(Org. Accused No.2)

2. Irfan Abdul Karim Shaikh
@ Irfan Shaikh @ Raabo
Age about 44 years, Occ: Service,
Residing at Room No.03,
Vijay Niwas, Shivaji Nagar,
Mumbra, Thane – 400 612.

... (Org. Accused No.4)

Vs.

The State of Maharashtra
(At the instance of Police Inspector,
Mumbra Police Station, Thane)
Vide C.R.No.I-1104 of 2024.

... Opponent

....

Mr Abdul Wahab Shaikh, for the Applicant.

Mr Nitin B Patil, APP, for Respondent State.

API Vasant Khatele, Mumbra Police Station.

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Coram : R.N. Laddha, J.

Date : 28 June 2024

P.C. :

By the present application, the applicants seek pre-arrest bail in connection with CR No.1104 of 2024, registered at Mumbra Police Station, Thane, for the offences punishable under Sections 307 read with 34 of the Indian Penal Code.

2. The prosecution alleges that the applicants, in furtherance of their common intention, assisted the co-accused by holding the informant's hands to assault him with a sword on his head and stomach. It is further alleged that the applicants, along with the co-accused, attacked the informant's friend, who tried to rescue him, with a fist and kick blows.

3. Mr Abdul Wahab Shaikh, the learned Counsel, appearing on behalf of the applicants, asserts the applicants' innocence. He argues that the informant and the applicants were known to each other, and the applicants were trying to appease the quarrel when the alleged incident occurred. The learned Counsel submits that the co-accused Zahid Khan, who attacked the informant with the alleged sword, has been enlarged on bail. The weapon has already been recovered, and thus, the custody of the applicants is not necessary.

4. Mr Nitin Patil, the learned Additional Public Prosecutor representing the respondent/ State, submits that the applicants actively participated in the crime, and a CCTV camera has captured the same.

The applicants restrained the informant and caused injury to the informant's friend, who tried to rescue the informant from the clutches of the applicants and co-accused. The learned APP further submits that the applicants were aware that the attack with a sword could cause injury and lead to the informant's death. The offence is serious, and the investigation is in progress, requiring the applicants' custodial interrogation.

5. Upon perusing the record, it becomes evident that the applicants have been named in the FIR with a specific role attributed to them. The applicants allegedly restrained the informant and aided the co-accused, Zahid Khan in assaulting the informant with a sword. Additionally, they attacked the informant's friend, who tried to rescue him. According to the learned APP, the incident was captured on the CCTV, showing active participation of the applicants. Eyewitnesses also corroborated their involvement in the crime. The material available on record indicates the applicants' involvement in the crime. The offence is serious in nature and the investigation is in progress. In these circumstances, the custodial interrogation of the applicants would be necessary. As a result, the present application stands rejected.

(R.N. LADDHA, J.)