



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.227 OF 2024
(Mehjabin Mohd. Alim Malik and ors. Vs. The State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. F.R. Kashif , Advocate for the applicants.
Mr. A.B. Badar, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MAY 2, 2024.

1. Apprehending arrest at the hands of Police in connection with Crime No.58/2024 registered with Yashodhara Nagar Police Station, Nagpur for the offence punishable under Sections 143, 147, 148, 323, 324, 326, 341, 504 read with Section 149 of the Indian Penal Code, 1860 and Section 135 of the Maharashtra Police Act, 1951, the applicants approached this Court for grant of pre-arrest bail.

2. The accusation against the present applicants is on the basis of a report lodged by Vishnu Shahu, on an allegation that on 22/01/2023 at about 9.40 p.m. there was a quarrel between one Dhanush and his family and the family of one Alim Malik on the count of bursting of crackers. It is alleged that present applicants and other co-accused have assaulted the said Dhanush and his family by means of wooden stick, due to which he has sustained the injuries, on the basis of which, the crime is registered.

3. Learned Counsel for the applicants submitted that the counter FIR's are filed regarding the said incident. Now, the weapon is already recovered. The injuries sustained by the injured are sufficient to attract Section 326. Considering the fact that free fights between the two groups on account of bursting of the crackers, the alleged incident has taken place. Their custodial interrogation is not required. In view of that, they be protected by granting pre-arrest bail.

4. Learned APP strongly opposed the said application on the ground that the diagram of the weapon drawn by the Medical Officer and 3-4 persons have sustained the injuries in the said incident sufficiently shows the involvement of the present applicants in the alleged offence. He submitted that though weapon is recovered then also custodial interrogation of the applicants is required as there is overt act on the part of the applicant No.2 and 3. In view of that, the application deserves to be rejected.

5. Having heard learned Counsel for the applicants and learned APP for the State, perused the investigation papers. There is no dispute as to the fact that the cross complaints are filed. The alleged incident has occurred on account of bursting of crackers. As per the allegation, applicant Nos. 2 and 3 have assaulted one Dhanush and other prosecution witnesses by means of wooden sticks. All the injured were referred for the

medical examination. The medical certificates which are filed on record shows that the injured have sustained simple injuries and they immediately discharged from the hospital. Considering the nature of the injuries and considering the fact that weapon is already recovered the custodial interrogation of the present applicants is not required. In view of that, they can be protected by granting anticipatory bail. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) In the event of his arrest, the applicants – 1) Mehjabin Mohd. Alim Malik, 2) Mohd Arhan Ahmed Mohd Alim Malik and 3) Mohd Ashraf Mohd Alim Malik in connection with Crime No.58/2024 registered with Yashodhara Nagar Police Station, Nagpur for the offence punishable under Sections 143, 147, 148, 323, 324, 326, 341, 504 read with Section 149 of the Indian Penal Code, 1860 and Section 135 of the Maharashtra Police Act, 1951, be released on anticipatory bail on executing PR. Bond of Rs. 25,000/- each with one solvent surety each, in the like amount.

(iii) The applicants shall attend the concerned Police Station as and when

required for the investigation purpose and shall co-operate with the investigating agency.

(iv) The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*