

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

ANTICIPATORY BAIL APPLICATION NO. 558 OF 2025

Abdullah Atiqur Rehman Nagori And Ors	...Applicants
Versus	
The State Of Maharashtra And Anr	...Respondents

Mikdad Aziz Zumnerwala, Advocate for the Applicants.

Mr. Ajay Patil, APP for the State.

Mr. Sharad Khade, PSI Kashmira Police Station present.

CORAM : RAJESH S. PATIL, J.

DATED : 28 FEBRUARY 2025

P.C.:

1. The present Application is filed by the Applicants under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [corresponding Section 438 of Cr.PC], for anticipatory bail in connection with C.R. No. 0062 of 2025, dated 7 February 2025, registered with Kashmira Police Station, District Thane, under Sections 115, 117 (4), 118 (1), 351 (2) and 352 of the Bharatiya Nyaya Sanhita, 2023.

2. It is the case of the prosecution that while the Informant and Accused No.1 were at the mosque for prayer, they collided with each other, leading to a scuffle. The next day, groups from both sides gathered, resulting in a physical altercation involving hitting with hands

and fists. There is medical certificate showing that the injury to the Informant. Hence, the F.I.R. has been lodged. So also the cross F.I.R. has been filed by the Applicant No.2.

3. It is the case of the present Applicant that the only offence which is non-bailable in the present F.I.R. is under Section 117 (4) of the BNS Act, which would not be applicable to the present proceedings. Since in the F.I.R. states that four persons had collectively attacked to the Informant, hence the said section does not apply.

4. The learned Advocate for the Applicants submits that the most of the Applicants are college students and their examination is scheduled to start from the next week. He further submits that there is cross F.I.R. lodged wherein there is a reference to Section 117 (2) of the BNS Act.

5. The learned APP submits that in the said cross F.I.R., the present Accused persons who are the Informants in the present proceeding have been called by the police for recording their statements and thereafter the police has not taken any action against them. He submits that this is the case where the F.I.R. and cross F.I.R. have been filed and parties are staying in the same locality and dispute is not of grave nature. He submits that if the Applicants cooperate with the police, the police would have no intention of arresting the present Applicants. Further most of them are students who are having no criminal background.

6. I have heard both the sides and have gone through the documents including the charge-sheet.

7. It appears that a small scuffle broke out after the prayers when Applicant No.2 and the Informant collided, which subsequently led to a physical fight between groups belonging to the Applicants and the Informant. Ultimately the F.I.R. and cross F.I.R. have been lodged.

8. The Sections attracted in the present F.I.R. are bailable, except under Section 117 (4) of the BNS Act. To attract Section 117 (4) at least five and more persons acting together should have committed the offence. However, in the present proceedings as per the F.I.R. there were four persons who had taken part in the alleged incident therefore preliminarily Section 117 (4) of the BNS would not be applicable. The police also seriously do not need custody present of the Applicants. Therefore, the present Anticipatory Bail Application can be allowed subject to the Applicants complying certain conditions.

ORDER

(a) The Anticipatory Bail Application is allowed.

(b) In the event of arrest of the Applicants C.R. No. 0062 of 2025, dated 07 February 2025, registered with Kashmira Police Station, District Thane, under Sections 115, 117 (4), 118 (1), 351 (2) and 352 of the Bharatiya Nyaya Sanhita, 2023, the Applicant

shall be released on bail furnishing P.R. bond to the extent of Rs.20,000/- with one or more sureties of the like amount.

(c) The Applicants shall co-operate with the investigation and attend the investigating officer of the concerned police station, as and when called.

(d) The Applicants shall not directly or indirectly make any inducement, threat or promise to victim and to any person acquainted with facts of case so as to dissuade him/her from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(e) The Applicants shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(f) The Applicants and his surety shall provide their respective mobile numbers, e-mail address and documents pertaining to the place of residence.

9. In view of the above, **the present Anticipatory Bail Application is disposed of.**

(RAJESH S. PATIL, J.)