

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, NASHIK,
AT – NASHIK.

(Presided over by Mr. M. H. Shaikh)

Criminal Bail Application No.1265 of 2022

CNR NO.MHNS010053612022



Ashank Ambadas Shinde and Anr. ... Applicants/Accused.

V/S

State of Maharashtra
Through – Sinnar Police Station ... Respondent/State.

Appearance : Ld. Adv. Shri. Sameer Inamdar for Applicants/Accused.
Ld. A.P.P. Shri. Sachin Gorwadkar for Respondent/State.
Shri. S. S. Awari, P.S.I. (I.O.) present.

ORDER BELOW EXH. NO.1
(Delivered on 19th October, 2022)

1. This is an application filed under Section 438 of Criminal Procedure Code for grant of pre-arrest bail in C. R. No. I-434/2022 registered with the respondent Sinnar Police Station for an offence punishable under Sections 307, 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and Section 37(1)(c) and 135 of Bombay Police Act.

2. Read the application and the say filed by the respondent vide Exh.4. Heard Ld. Advocate for the applicant, Ld. A.P.P. for the State and the I.O., who is present in Court.

3. It is alleged by the prosecution that, on 08.10.2022 at about 04.15 p.m. in front of Hotel Gondeshwar Raswanti and Nasta on Gangaves to Naigaon road, Sinnar the incident had taken place. Applicants and other accused persons formed unlawful assembly and accused No.1 assaulted the complainant on his head by the handle of the sword and accused No.2 assaulted the complainant on his head from behind by iron-rod. Accused Nos.3 to 5 and other 4/5 persons assaulted the complainant on his stomach and back by fists and leg blows. The complainant sustained grievous injury and was taken to the Hospital and later on the matter was reported to the Police.

4. It is the case of the applicants, who are accused Nos.4 and 5 that there is a counter case for the same offence, which was filed on 08th October, 2022 and the F.I.R. of the said case is filed after two days. The delay is not explained. The applicants are falsely implicated as they were not on the spot of incident. The role of applicants is that, they had assaulted the complainant by fists and leg blows. Nothing is to be recovered and discovered at their instance. Ready to abide by the terms and conditions likely to impose by the Court. Therefore, prayed to allow the application.

5. Respondent filed their objection at Exh.4 and objected on the ground that custodial interrogation of these applicants is necessary to ascertain, who were the other 4/5 persons involved in the Crime. Weapons and clothes are required to be seized. Offences alleged is serious in nature. Therefore, prayed to reject the application.

6. Upon hearing and going through the material placed on record, it is a fact that two groups are involved in the said incident. The first F.I.R. was filed by the side of the applicants against the complainant and others on 08th October, 2022, whereas the F.I.R. of this case was filed after a delay of two days. The delay is explained by the I.O. that, the complainant was admitted in the Hospital and was not in a condition to give the statement. Though, the role of these applicants is of beating the complainant by leg and fists blows, but they were on the spot of incident as per the allegations made in the F.I.R. The weapons are required to be seized. The other three accused whose names are there in the F.I.R. are yet to be arrested. This Court finds that, the custodial interrogation of these applicants is necessary. Therefore, the arguments of Ld. Advocate for the applicants that to give counter blast to their case, this case is filed is not proper. The complainant sustained stitches on his head and it is evident from the material place on record. As far as, the argument that, the applicants were not on the spot of incident and the photographs, which are produced on record, in that record, inquiry and investigation is necessary, one can not bank upon those photographs, when the complainant has named the applicants in the F.I.R.

7. As far as, the authorities relied by Ld. Advocate for the applicants i.e. “Krushna Shinde v/s State of Maharashtra” and “Sandip Pawar v/s State of Maharashtra” are concerned, in both these authorities, the bail was a regular bail and not a pre-arrest bail. Therefore, these authorities are not applicable to our case in hand. As far as the third authority i.e. “Harun Shaikh and Another v/s State of Maharashtra” In this authority, the cross-complaint were there and the accused persons of the cross-complaint came to be enlarge on pre-arrest bail, therefore the

accused in this authority was also released on pre-arrest bail. In our case in hand, in the cross-complaint, the accused persons are arrested and remanded to police custody till 20.10.2022. Therefore, the said authority is not applicable to our case in hand. In the result, the application fails. Hence, the order.

ORDER

1. Criminal Bail Application No.1265/2022 stands rejected.
2. Inform the order to the I.O.

Place : Nashik.
Date : 19/10/2022

(M. H. Shaikh)
Additional Sessions Judge, Nashik.