

MHCC020171092022



IN THE COURT OF ADDITIONAL SESSIONS JUDGE MUMBAI,

AT GR. BOMBAY

ANTICIPATORY BAIL APPLICATION NO. 2794 OF 2022.

IN

C.R.NO. 1175 OF 2022.

1. Faizan Salim Qureshi,

2. Shabana Salim Qureshi.

... Applicants

Versus

The State of Maharashtra,  
(At the instance of Nirmal Nagar  
Police Station)

... Respondent

Appearances :-

Ld. Adv. Mr. Vinay Khobragade h/f Adv. Mr. Rajesh Khobragade  
for the applicants.

Ld. APP Mr. Abhijeet Gondwal for the State.

CORAM : H.H. THE ADDITIONAL SESSIONS JUDGE  
DR. A. A. JOGLEKAR (C.R.NO.37)

DATED : 30<sup>TH</sup> DECEMBER, 2022.

ORDER

By this application the applicants **Faizan Salim Qureshi**  
**and Shabana Salim Qureshi** have sought for grant of pre-arrest bail  
under Section 438 of the Code of Criminal Procedure, (In short,

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“Cr.P.C”), as he apprehends arrest by Nirmal Nagar Police Station in C.R.No.1175/2022, for the offences punishable under Sections 323, 324, 326, 504, 506 r/w 34 of the Indian Penal Code, (hereinafter referred to as, “IPC”) alongwith Sections 37 (1) and 135 of the Maharashtra Police Act, 1951.

2. It is the case of the prosecution that, the informant is a resident and member of Ekta Welfare Society. It is alleged that, one Salim Yasin Qureshi @ Salim Mobile, his son Faizan and Yusuf Sheikh are resident and member of Garib Nagar Resident Welfare Association. It is stated that there are multiple litigations by and between either societies pending before the Hon’ble High Court pertaining to issue of rehabilitation qua allotment at the instance of Western Railways. As on 13.12.2022, at around 3 PM informant was travelling on his bike from Garib Nagar Rickshaw stand wherein, Yusuf and Faizan were cleaning Salim Innova Car. It is alleged that, the said Yusuf gave weird look at the informant and hurled abuses.
3. Further there were altercations between the informant and Yusuf alongwith Faizan. And in the meantime Shabana intervened and assaulted the informant. The entire incident is recorded on mobile by the informant. Further it is alleged that, Salim thereafter came from his house with an iron knife and stabbed Rashid as Rashid tried to intervene and pacify the matter. Further Yusuf pelted a stone at Rashid. In the meantime Yusuf, the informant recording the entire incident on mobile, hence he also stabbed the informant on his left hand. Further the neighbours tried to intervene and pacify the matter but Salim pointed out knife and threatened the people gathered over

there who has disbursed from the spot. Thus, offence was registered under this sections *ibid*.

4. The Ld. Advocate for applicant states that, the Applicants are falsely implicated and that the present of offence is registered against the Applicants in order to counter blast their complaint as they have lodged similar such complaint against the informant. Further it is stated that the entire issue pertains to the fact that there are multiple litigations pending by and between the Applicants and the informant's societies pertaining to allotment of tenements under rehabilitation by the railways. And that out of such grudges with regard to non-allotment either parties have locked horns. It is further stated that there are no criminal antecedents to the discredit of the Applicants. And therefore, considering the same no such custodial interrogation is required. Hence, the Ld. Advocate for applicant prayed for enlargement of the applicant on pre-arrest bail.

5. Per contra the prosecution has filed their reply vide Exh.2 and *inter alia* have resisted the application on various grounds. It is categorically stated that, either parties reside in the same vicinity and the entire incident has occurred upon certain disputes between either of them on account of the issue of non-allotment of premises under rehabilitation by the railways. Further, the Applicant No. 1 has an antecedent to his discredit of similar nature and the fact of injury deserves consideration at this juncture, more especially when the investigation is at a nascent stage. Hence, the Ld. Prosecutor prayed for rejection of application.

6. Heard Ld. Advocate for applicant and the Ld. APP for the State. Perused the application and reply.
7. On meticulous examination of the case record it evinces to myself that, either parties are members of 2 different societies pursuing such alternative accommodation qua premises under rehabilitation by the railways. In pursuance of the claims, either parties have locked horns as stated in the application. And in the background of the same, the incident dated 13.12.2022 has to be looked into. The Applicants have not denied for their presence at the alleged spot of incident on the relevant day of occurrence of incident. Although, the Applicants have stated that, the Applicant No. 1 along with Yusuf were present at the spot and were cleaning a car at this juncture will have no bearing. Since either parties have lodged such complaints and that either of them have got injured with such deadly weapons causing a bleeding wound and such fact cannot be ignored.
8. While considering prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused. Frivolity in the prosecution always be considered and it is only the element of genuineness that shall have to be considered in the matter of bail.
9. More so, considering the welcome of arguments the Applicants have not denied their presence at the spot of incident. Also, apparently from the record it evinces to myself that the

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informant is sustained with such injuries with a bleeding wound to one Rashid and the said fact at this juncture will deserve consideration more especially when the investigation is at a nascent stage. Also, that the Hon'ble Bombay High Court has recently observed that mere necessity of custodial interrogation is one of the grounds which is required to be considered and is not a sole ground. Upon considering the aforesaid facts and circumstances in my considerate view custodial interrogation is required in the present crime in order to honour will such face sets of crime under investigation, and hence Custodial interrogation is necessitated, as it being more elicitation oriented. So also, investigation is that nascent stage and therefore granting of such relief of pre-arrest bail will naturally derail the momentum of investigation. Thus, in view of the same, I hold that, the application deserves no consideration. Hence, order infra :-

**ORDER**

Anticipatory Bail Application No. 2794/2022 stands rejected and disposed of accordingly.



**Date : 30.12.2022**

Dictated on : 30.12.2022  
Transcribed on: 30.12.2022  
HHJ signed on : 03.01.2023

**(DR. A. A. JOGLEKAR)**  
**Additional Sessions Judge**  
**City Civil & Sessions Court,**  
**Gr. Bombay (C.R.37)**

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**“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”**

<b>Upload Date</b>	<b>Upload Time</b>	<b>Name of Stenographer</b>
<b>03.01.2023</b>	<b>04.22 p.m.</b>	<b>Mahendrasing D. Patil (Stenographer Grade-I)</b>

<b>Name of the Judge (With Court Room No.)</b>	<b>HHJ DR. A. A. JOGLEKAR (Court Room No. 37)</b>
<b>Date of Pronouncement of JUDGMENT/ORDER</b>	<b>30.12.2022</b>
<b>JUDGMENT/ORDER signed by P.O. on</b>	<b>03.01.2023</b>
<b>JUDGMENT/ORDER uploaded on</b>	<b>03.01.2023</b>