

**IN THE COURT OF SESSIONS FOR GR.BOMBAY
AT BOMBAY
ANTICIPATORY BAIL APPLICATION NO.2824 OF 2022**

CNR NO. MH-CC02-017240-2022

1. Mohammed Hussain Gouse Mohammed Hasim Pathan

Age: 20 years

2. Mohd.Hasan Mohd.Hasin Khan @ Pathan

Age: 25 years.

3. Mrs. Haseena Bee D/o Mohammed Hasim Pathan

Age: 21 years.

4. Mrs. Jainab Bee d/o Mohammed Hasim Pathan

Age: 23 years.

All are residing at

B-Sector, H/M Line, Near Gulshan-e-Baghdad

Masjid, Room No.2, Cheeta Camp,

Trombay, Mumbai-400 088.

... Applicants

Versus

State of Maharashtra

(At the instance of Trombay

Police Station.)

.... Respondent.

Learned Advocate Mr. Jabali for the applicant/accused.

Learned APP Mr. Ramesh Siroya for the State.

CORAM : HIS HONOUR THE ADDL.SESSIONS JUDGE

SHRI.M.S.KULKARNI (C.R.NO.56)

DATED : 10th January, 2023.

(DICTATED AND PRONOUNCED IN OPEN COURT)

ORAL ORDER

. This is the anticipatory bail application in respect of C.R.No. 631/2022 registered with Trombay Police Station for the offence punishable under Sections 307, 326, 324, 143, 144, 147, 148, 149, 323 of the I.PCode.

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2. As per FIR incident was happened on 14.12.2022 around 11.30 p.m. The first informant is Mohd. Rafiq Abdul Jabbar Shaikh. As per his FIR at relevant time he had heard noise of quarrel so he came outside. He found that one adult son namely Mustafa son of Mohd Hasin Pathan was scuffling with minor son Rizwan. At that time nephews of the first informant namely Afridi and Akhtar were asking Mustafa not to quarrel with Rizwan. But he did not listen. He even started to pelt stones to Afridi and Akhtar. So, when the first informant asked him why he was pelting stones, other accused namely Hassan, Hussain, Jafar, Rabiya, Hashim, Shabina and Rubina and her husband Zakir came thereat. Accused Rabiya and her husband Hashim dealt blow of piece of tiles on the head of the first informant, because of that he sustained bleeding injury. Accused Hassan dealt blow of iron rod on right finger, accused Jafar used sword and dealt blow on wrist of the first informant. Meanwhile Mustafa, Shabina, Rubina and Zhakir assaulted the first informant by hands and kick blows and with the help of stones. When the sister of the first informant namely Fatima came to rescue him accused Hussain dealt blow of wooden bamboo on her left shoulder and forehead and the accused Shabina dealt blow of wooden bamboo of his right shoulder. When the younger brother of the first informant came to rescue the accused Hashim, his four sons, two daughters and brother in law assaulted them by wooden bamboo, stone, sword to cause injuries. Thereafter they all were taken to the hospital.

3. The applicant/accused have asked for bail on the ground that;

- a. They have been falsely implicated.
- b. Cross FIR for murder and for the offences under POCSO Act have been registered against the first informant and his family members. The

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ingredients of Section 307 of IPC do not attract in this crime, considering the role assigned to each accused with particular weapons, to suggest that there was no prior meeting of mind.

c. They are permanent resident of Mumbai and they are ready to abide by the bail conditions.

d. Recovery of weapons is planted one.

4. On the other hand prosecution has objected bail on the grounds that;

a. accused are the hardened criminal .

b. If applicants/accused are released on bail, they will tamper from evidence and flee from justice.

5. I heard Learned advocate Mr. Jabali for the applicants/accused and Learned APP Mr. Siroya for the State at length.

6. It is tried to submit that there is cross-case from both parties. FIR of the applicants/accused came to be registered later on. IO was well aware about the death of father of applicants/accused in the crime. Medical documents of the applicants/accused disclose that they had sustained grievous injuries.

7. No doubt in the alleged incident the father of the applicants/accused lost his life, but it is alleged in the FIR that when the first informant asked one of the accused Mustafa not to and he started to assault first informant and thereafter his family members also called and started beat him. What kind of injuries he stained he had further stated about the injuries in family at the hands of the accused. The particular weapon has been shown in the hands of the accused. The

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prosecution has put on record medical documents of the first informant and one Fatima Shaikh. The first informant has though sustained injureis by blunt weapon, one of the injuries is grievous in nature, while Fatima Shaikh has sustained injuries by sharp weapon, though all are simple in nature. The investigation is still going on. Hence application needs to rejected with following order;

ORDER

Anticipatory Bail Application No.2824 of 2022 is hereby rejected.

(M.S.Kulkarni)
Addl.Sessions Judge,
City Civil and Sessions Court,
For Greater Bombay

Date : 10.01.2023.

Dictated on : 10.01.2023.
Typed on : 12.01.2023.
Draft checked on : 13.01.2023
Signed on : 16.01.2023

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

**UPLOAD DATE AND TIME : 16.01.2023 at 11.52 a.m.
NAME OF STENOGRAPHER : Mrs.Prajakta K. More**

NAME OF THE JUDGE	HHJ SHRI.M.S.Kulkarni (C.R.No.56)
Date of Pronouncement of Order	10.01.2023
Order signed by the P.O. On	16.01.2023
Order uploaded on	16.01.2023