

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, NASHIK,**  
**AT – NASHIK.**  
**(Presided over by Mr. M. H. Shaikh)**

**Criminal Bail Application No.14 of 2022**

**CNR NO.MHNS010000392022**



1. Rahul Paraji Arote  
Age : 36, Occu. : Business

2. Bhushan Bhikan Patil  
Age : 36, Occu. : Services

R/o : Ramkrushna Nagar,  
Chunchale Shivar, Satpur,  
Ambad-Link Road, Nashik.

... Applicants.

**V/S**

State of Maharashtra  
Through : Ambad Police Station  
(C.R. No.I-467/2021) ... Respondent/State.

**Appearance** : Ld. Advocate Shri. Rahul Kasliwal for Applicants.  
Ld. A.P.P. Shri. Sachin Gorwadkar for Respondent.  
Smt. Sonal Fadol, PSI, I.O. is present.

**ORDER BELOW EXH. NO.1**  
**(Delivered on 13<sup>th</sup> January, 2022)**

1. This is an application for pre-arrest bail under Section 438 of Cr.P.C. in connection with Crime No.467 of 2021 registered against the applicants and others with the respondent/police station under Section 324, 326, 504, 506 r/w 34 of the Indian Penal Code (for Short "I.P.C.") .

2. Perusal of the F.I.R. reflects that, incident occurred in front of Shivkrupa Hotel. The complainant alongwith his brother Uttam were standing at the Pan Stall behind Shivkrupa Hotel. At the relevant time at about 09.00 p.m. on 28.12.2021, the applicant No.1 alongwith Pawan Rajput co-accused and his friend were standing in front of Shivkrupa Hotel. At that time, applicant No.1 asked the complainant as to why he is looking at him. On that quarrel took place and the applicants alongwith co-accused and one more person assaulted the complainant and his brother with sharp weapon. The complainant and his brother took the stick from there and countered the attack and thereafter they ran away from there. Thereafter, they were taken to Hospital and thereafter they lodged the report.

3. Respondent filed their say vide Exh.6 and objected. It is their case that, the offences alleged are serious in nature. Complainant and his brother are seriously injured and treatment is going on. The muddemal used in the Crime is to be recovered. Statements of the witnesses are to be recorded. Applicant may pressurize and threaten the complainant and the witnesses. Therefore, prayed to reject the application.

4. Respondent filed additional say vide Exh.7 and submitted that the I.O. has recorded the statements of the Supervisor and the Watchman of Ekta Green Valley Society. Applicants involvement is there in the said Crime. Therefore, prayed to reject the application.

5. Heard Ld. Advocate for the applicants and Ld. A.P.P. for the State. So also heard the I.O. Gone through the police-papers produced for inspection by the I.O. So also gone through the documents filed by Ld. Advocate for the applicants.

6. Upon hearing and going through the material placed on record, what can be gathered is that, there are counter cases filed by the parties against each other. The complainant and brother came to be charged with Section 324 and other sections of I.P.C. whereas Section 326 and other sections of I.P.C. came to be applied to the applicants and others. The co-accused of this Crime came to be arrested and released on bail by the Court.

7. The applicants had come with a specific defence of *Alibi* i.e. they were not present, when the incident had taken place. For that purpose Xerox copy of register maintained by the Watchman of the Society is filed on record. In the additional reply, the respondent had admitted about the fact that applicant No.1 entered in the Society in the evening, but still they have doubt because of the statements of the Watchman and the Supervisor of the Society. It is argued that, applicant No.1 received the call after the incident, about the incident and thereafter he called applicant No.2 and thereafter they went to the spot. It is argued that on the next day of incident they were at the Police Station. Police have also taken the Mobile of applicant No.1 and it was there for four days. The said fact that the applicant No.1 & 2 were at the Police Station alongwith their friends and they were interrogated is not disputed by the I.O. So also, she did not dispute the fact that, the Mobile phone of applicant No.1 was with her for four days. The question crops-up in the mind of this Court as to when the F.I.R. clearly mentions the names of applicants and one other accused, then what prevented the I.O. from arresting the applicants when they were present in the Police Station. However, the fact remains that the I.O. interrogated the applicants and also seized the Mobile of the applicant No.1 and kept with her for four days. This Court finds that, there is a counter case, therefore false implication of the applicants can not be ruled out. The applicants had already visited the Police Station and they were interrogated by the I.O. Therefore, this Court finds

that, their custodial interrogation with the Police is not necessary. By imposing certain conditions, the investigation can proceed further. In the result, the application succeeds. Hence, the order.

**ORDER**

1. Criminal Bail Application No.14 of 2022 is allowed.
2. In the event of arrest, Applicant No.1 Rahul Paraji Arote and Applicant No.2 Bhushan Bhikan Patil be released on bail on their executing a personal bond of Rs.15,000/- each with solvent sureties in like amount to the satisfaction of the I.O.
3. Applicants to remain present before the I.O. as and when she calls them under prior written intimation till filing of the Charge-sheet and co-operate the I.O. in investigation.
4. Applicants not to threaten and pressurize the complainant and the witnesses of this Case.
5. Office to inform this order to the respondent.
6. In the above terms, application stands disposed off accordingly.

Place : Nashik  
Date : 13/01/2022

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