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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.130 OF 2015

Rohidas Namdeo Bodake	...	Applicant
V/s.		
State of Maharashtra	...	Respondent

WITH
CRIMINAL APPLICATION NO.115 OF 2015
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.130 OF 2015

Riyasat Hussain Anwar Hussain	...	Intervener/First Informant.
V/s.		
State of Maharashtra	...	Respondent.
and		
Rohidas Namdeo Bodake	...	Original Applicant.

Mr.Nitin P. Dalvi, for the Applicant.
Ms.Rutuja Ambekar, APP for the Respondent – State.
Mr.A.H.H.Ponda i/b Mr.D.S.Joshi, for the Intervener.
PSI – P.B.Kadam, D.B.Marg Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.
DATED : 25th MARCH, 2015.

P.C.

1. Heard learned counsel for the Applicant, the learned APP for the Respondent – State and the learned counsel for the intervener.
2. By this application, the applicant seeks pre-arrest bail in connection

with C.R.No.356 of 2014 registered with the D.B.Marg Police Station, Mumbai, for the alleged offences punishable under Sections 323, 326, 384, 504, 506(II), 34 of the Indian Penal Code.

3. The complainant - Riyakat Hussein, has alleged that on 30th November, 2014 at about 4.30 p.m. an incident took place in which Bandya, Raju, Nitin, Sangle assaulted the complainant and demanded 'Hafta' from him. It is further alleged that when he was running away from the spot, Bandya assaulted the complainant with a cricket bat over his head and Raju assaulted Azhar with a cricket stump.

4. Learned Counsel for the Applicant submitted that the applicant had not assaulted either the complainant or Azhar. He submitted that the CCTV footage clearly reveals that the applicant was not in possession of any article, like stone, tile or any other weapon. Infact vide order dated 4th March, 2015, the CCTV footage of the CD was handed over to the Investigating Officer by the complainant, to enable him to go through the same. Learned APP herself has gone through the CCTV footage and certain photographs placed on record. Prima-facie, although it appears that the applicant was present at the spot, at the time of the incident, no overt act

of assault by any weapon/article, is seen either in the CCTV footage or in the photographs. It appears that subsequently on 17th December, 2014, a supplementary statement of the complainant was recorded, in which he has clarified that the person named in the FIR as Raju Bodke, is infact the present applicant. According to the complainant, the present applicant also abused the complainant and demanded 'Hafta' and on failure to fulfill the demand, threatened to kill them.

5. Considering the fact, that the CCTV footage and the photographs do not prima-facie, show that the applicant assaulted the complainant with any weapon, the custody of the applicant is not required. However, considering the nature of allegations in the FIR regarding threats of extortion, the Commissioner of Police is directed to conduct a Departmental Enquiry against the applicant, who is a Police Naik. The applicant is granted pre-arrest bail on the following terms and conditions:

ORDER

- i) In the event of the arrest, the Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs15,000/- with one or two sureties in the like amount.

- ii) The Applicant shall attend the D.B.Marg Police Station, Mumbai, on every Saturday between 6.00 to 8.00 p.m., till the filing of the charge-sheet;
- iii) The Applicant shall not tamper or attempt to influence the complainant/witnesses or any persons concerned with the case ;
- iv) The Applicant shall co-operate with the Investigating Agency;
- v) The Commissioner of Police is directed to depute a Senior Officer to conduct a departmental enquiry against the applicant, with regard to the incident.

6. The Application is allowed and disposed of in above terms.

7. It is made clear, that the observations made herein, are prima-facie, for the purpose of deciding this application.

8. In view of the order passed in Criminal Anticipatory Bail Application No.130 of 2015, nothing survives for consideration in Criminal Application No.115 of 2015. The same is also disposed of.

9. Parties to act upon the authenticated copy of this order.

(REVATI MOHITE DERE, J.)