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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.291 OF 2015

Sunil Rajaram Jaiswal ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr.Dattaram Godbole i/b Mr.Kamlesh Hadkar, for the Applicant.

Mr.Y.M.Nakhwa, APP for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.
DATED : 11th MARCH, 2015.

P.C.

1. Heard learned counsel for the applicant and learned APP for the Respondent – State.

2. This is the second bail application preferred by the applicant. The first bail application, being Criminal Anticipatory Bail Application No.234 of 2015 was not pressed by the learned counsel for the applicant. The same is recorded in the order dated 17th February, 2015. It is also recorded, that the applicant will surrender before the appropriate Court on 23rd February, 2015.

3. By this application, the applicant again seeks pre-arrest bail in connection with C.R. no.29 of 2015 registered with the Chembur Police Station, Mumbai, for the alleged offences punishable under Sections 323, 326, 504 r/w 34 of the Indian Penal Code.

4. Learned Counsel for the applicant contended that without the instructions of the present applicant, the first bail application was not pressed by his advocate, qua the applicant. He submitted that no reasons have been given in the first bail application, being Criminal Anticipatory Bail Application No.234 of 2015, which was not pressed by the then Advocate appearing on behalf of the applicants, as to why, the same was not pressed on his behalf. Learned Counsel for the applicant contended that there was motive, to falsely implicate the applicant in the present case. He submitted that the injury certificate shows that the injury sustained by the complainant are simple and not grievous injuries.

5. It may be noted, that the learned counsel for the applicant had, at the outset, sought leave to withdraw the prayer seeking anticipatory bail on behalf of the applicant no.1 and had made a statement that the applicant will surrender before the appropriate Court on 23rd February,

2015 and the same is recorded in the order dated 17th February, 2015, passed by this Court, as this Court was not inclined to grant any protection to the applicant. Learned Counsel for the applicant seeks to argue that the said leave to withdraw the prayer, qua the present applicant was made by learned Counsel Mr. Prakash Jain without the instructions of the applicant. He submitted that the applicant has therefore filed the present application seeking his enlargement on bail in the event of his arrest, in the aforesaid C.R. no.29 of 2015 registered with the Chembur Police Station, Mumbai, for the alleged offences punishable under Sections 323, 326, 504 r/w 34 of the Indian Penal Code.

6. Perused the application, the earlier order dated 17th February, 2015. The defences raised by the learned counsel for the applicant, that because of previous enemical relations, the applicant has been falsely implicated cannot be taken into consideration, while deciding the present application. Prima-facie, according to the complainant, he was assaulted by the present applicant – Sunil Jaiswal with a chopper. The same is also recorded in the injury certificate wherein, it is specifically stated that the informant had given a history of assault by a known person at 10.30 p.m., on 23rd January, 2015 by chopper. Learned Counsel for the applicant further

submitted that he had sent a letter dated 23rd February, 2015 to the Commissioner of Police wherein he had sought CCTV footage of the police station to show that the applicant was present at the police station relevant time and that till date no reply has been received by him. The same cannot be a consideration for granting any protection to the applicant.

7. Considering the nature of allegations, prima-facie, this is not a fit case for granting anticipatory bail to the applicant.

8. Hence, the Application seeking anticipatory bail is rejected and disposed of as such.

9. Needless to observe, that if an application seeking regular bail is filed by the applicant, the learned Judge shall decide the same on its own merits, uninfluenced by the observations made in this order.

10. Parties to act upon an authenticated copy of this order.

(REVATI MOHITE DERE, J.)