

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 744 OF 2015

Firoz s/o Siddique Ansari

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Ms. Sunita S. Ghone a/w Mr. Deepak C. Natu i/b N. deepak and Co. for
Applicant

Ms. S. S. Kaushik APP for the State.

Mr. V. B. Ahire A.P.I. Mumbra Police Station

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 22nd JUNE 2015

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 932 of 2014 registered at Mumbra Police Station for offence punishable under sections 325, 326, 504, 506 r/w 34 of Indian Penal Code.

2) It is the case of prosecution that on 02/12/2014, one Mohd. Sadik Abdul Karim lodged a report alleging therein that on 01/12/2014, his son Moinuddin was standing near the building. At that time, suddenly Imran, Arif and Firoz i.e. present applicant approached him and picked up a quarrel over some

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dispute which had taken place earlier. Initially there was verbal altercation and thereafter, it is alleged that present applicant had assaulted Parvez with some instrument like a pistol. It is also alleged that other accused persons had assaulted Parvez with fist and kick blows. It is also alleged that Imran had bitten the pinna of ear of complainant which has caused amputation of right ear pinna. In any case, the said allegation is not attributed to present applicant. Medical certificate of Parvez shows that he had sustained simple injury on his head.

3) Learned counsel for the applicant submits that incident is admitted, however, applicant had no knowledge that Imran would suddenly bite the ear of complainant.

4) In view of this, applicant deserves pre-arrest bail. As far as present applicant is concerned, section 326 of Indian Penal Code is not applicable and hence, he is entitled to grant of pre-arrest bail. It is made clear that co-accused Imran and Arif shall not claim parity with present applicant. It is further made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 25,000/- and one or two solvent sureties in the like amount.
- (iii) Applicant shall report to concerned police station twice a week i.e. on every Sunday and Wednesday between 10.00 a.m. to 01.00 p.m. till the filing of charge-sheet and co-operate with investigating agency to the best of his capacity.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)