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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1021 OF 2015

Shan Ali Pasha	... Applicant
Vs	
The State of Maharashtra	... Respondent

WITH
CRIMINAL APPLICATION NO.674 OF 2015
IN
ANTICIPATORY BAIL APPLICATION NO.1021 OF 2015

Mohd.Shafi Mohd.Rafique Punjabi	...Applicant/Intervener.
Vs	
The State of Maharashtra	... Respondent

Mr.A.H.H.Ponda i/b Moinuddin Khan, for the Applicant.
Ms.P.P.Shinde, APP for the Respondent – State.
PSI – Tejanshu Patil, RAK Marg Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.
DATE : 08th SEPTEMBER, 2015

P.C. :

1. Heard learned counsel for the Applicant and learned APP for the Respondent - State.

2. By this Application, the Applicant seeks pre-arrest bail, in connection with C.R. No. 259 of 2015, registered with the R.A.K. Marg Police Station, Mumbai, for the alleged offences punishable under Sections 141, 143, 144,

148, 149, 324, 326, 307, 341, 452, 504, 506(II) of the Indian Penal Code r/w Section 3 and 25 of the Fire Arms Act.

3. The complainant is one Mohammad Shafi Mohammad Rafiq Punjabi. He has alleged that on 27th June, 2015, an altercation took place between the family members of the complainant and the son of Akbar i.e. Sukkha and others. He has alleged that in the said incident Akbar assaulted the complainant with a iron rod and Sukkha assaulted him with a chopper. The present applicant and one Sher Ali are alleged to have been assaulted the complainant with fist and kick blows, after dragging him from the premises. He has alleged that thereafter all the accused chased him and again Akbar is alleged to have assaulted him with a chopper and that the present applicant along with other accused are alleged to have assaulted him with fist and kick blows.

4. Learned Counsel for the Applicant submitted that the applicant has been falsely implicated in the said case as he is the brother of Akbar. He submitted that the present applicant was not present at the spot when the alleged incident took place and that the complainant has falsely implicated

all the family members of the applicant in the said case.

5. Learned APP on the instructions of the Investigating Officer who is present in the Court states that although CCTV footage was examined and it was found that the present applicant was not seen on the spot in the CCTV camera, the angle of the camera was such that it could not cover the entire events. She submitted that three C.Rs have been registered as against the present applicant. Learned Counsel for the Applicant states that two out of the said three CRs have been lodged by the complainant in view of the inimical relations between the parties.

6. Perused the papers, the injury certificate and the CCTV photographs. It appears that although in the CCTV footage the present applicant is not seen, however, the entire assault is not covered in the CCTV footage. In the said incident four persons were injured including the complainant. The nature of injuries appear to be grievous. The injury certificate of the complainant shows that he has received incised injury on the left arm, right wrist, behind the neck, on the occipital region and on the right side of the abdomen.

7. Prima-facie, considering the role attributed to the applicant i.e. of alleged assault by fist and kick blows and the fact that the applicant is not seen in the CCTV footage, the applicant is granted anticipatory bail on the following terms and conditions :-

ORDER

- i) In the event of arrest, the Applicant be enlarged on bail on furnishing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount ;
- ii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the R.A.K. Marg Police Station, Mumbai ;
- iii) The Applicant shall not enter the jurisdiction of Sewree, for a period of six months, except for attending the legal proceedings;
- iv) The Applicant shall attend the concerned Police Station in whose jurisdiction he intends to reside, on every Saturday, between 10.00 a.m. to 11.00 a.m., till the filing of the charge sheet and thereafter on the 1st Saturday of every month, for a

period of 12 months, after filing of the charge-sheet ;

v) The Applicant shall not tamper or attempt to contact or influence the complainant or any persons concerned with the case ;

vi) The Applicant shall co-operate in the conduct of the trial.

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

9. It is made clear, that the observations made herein are prima facie and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

10. In view of the disposal of the Anticipatory Bail Application No.1021 of 2015, the Intervention Application being Criminal Application No.674 of 2015 does not survive and the same is also disposed of.

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

REVATI MOHITE DERE, J.