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

ANTICIPATORY BAIL APPLICATION NO.1093 OF 2015

Rajendra Machindra Pardeshi	... Applicant
Vs	
The State of Maharashtra	... Respondent

Mr.Sachin B. Chandan, i/b Mr.Harshad Sathe, for the Applicant.

Mr.Harshawardhan Salgaokar, for the Original Complainant.

Mr.S.S.Pednekar, APP for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 31st AUGUST, 2015

P.C. :

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

2. By this Application, the Applicant seeks pre-arrest bail, in connection with C.R. No. I-310 of 2015, registered with the Naupada Police Station, Thane, for the alleged offences punishable under Sections 141, 142, 143, 146, 147, 149, 324, 427 r/w 34 of the Indian Penal Code.

3. The incident in question has taken place on 28th June, 2015. According to the complainant – Sujit Sanjay Bhoir, he had organised his birthday party at Coconut Lagoon Hotel, Thane. After the said party was over on 29th June, 2015 at about 1.30 a.m., the complainant and his friends went to Chintamani Chowk at Jambli Naka, Thane at about 2.00 a.m. for Ice cream. It is alleged that at that time one unknown person came there and asked the complainant and his friends to leave the place. On questioning the said person, it is alleged that the unknown person abused and physically assaulted the complainant and his friends. It is alleged that thereafter, 7 to 8 unknown persons came there and allegedly assaulted the complainant.

4. Learned Counsel for the Applicant submitted that the name of the present applicant is not disclosed in the FIR despite the applicant being known to the complainant. He submitted that infact the applicant had intervened in the quarrel that took place and had no role to play in the assault. He submitted that the considering the nature of injuries, the offence would not be one under Section 307 but would constitute a lesser offence.

5. Learned Counsel for the Intervener supports the learned counsel for the applicant and states that the applicant had no role to play and had only tried to separate the complainant and the unknown persons in the said incident. He submits that the applicant had not assaulted the complainant.

6. Learned APP opposed the present application. He submitted that there is a CCTV footage which clearly shows that the applicant had attempted to lift a stone and throw the same on the complainant. He submitted that the Division Bench of this Court had rejected the prayer of the applicant for quashing of the said case, as the offence was one under Section 307 of the Indian Penal Code. Learned APP states that the present applicant has antecedents.

7. Perused the papers. Admittedly the FIR has been lodged as against unknown persons, though the applicant and the complainant were known to each other. The nature of the injuries sustained by the complainant are simple in nature. Merely because there are antecedents does not mean that this application cannot be considered on merits. The

applicant's name has been disclosed by the complainant in the supplementary statement which was recorded on 2nd July, 2015. As far as the CCTV footage is concerned, the same is a matter of evidence and will be considered by the learned Judge at the stage of the trial.

8. Considering the peculiar facts of the case, 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 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 Naupada Police Station, Thane, ;
- iii) The Applicant shall attend the Naupada Police Station, Thane, on every Saturday, between 10.00 a.m. to 12.00 noon, till the filing of the charge sheet and thereafter on the 1st Saturday of every month, till the conclusion of the trial ;

- iv) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case ;
 - v) The Applicant shall co-operate in the conduct of the trial.
9. The Application is allowed and disposed of in above terms.
10. 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.
11. Parties to act upon the authenticated copy of this order.

REVATI MOHITE DERE, J.