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

ANTICIPATORY BAIL APPLICATION NO.1152 OF 2015

Ashraf Mushraf Baig	... Applicant
Vs	
The State of Maharashtra	... Respondent

Mr.Onkar Virendra Warange, for the Applicant.

Mr.S.H.Yadav, APP for the Respondent – State.

API – Kshirsagar R.A. Kherwadi Police Station, Mumbai.

**CORAM : REVATI MOHITE DERE, J.
DATE : 24th AUGUST, 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.282 of 2014, registered with the Kherwadi Police Station, Mumbai, for the alleged offences punishable under Sections 307, 324, 504, 506, 141, 143, 144, 147, 148, 149 of the Indian Penal Code.

3. The complaint has been lodged by one Naushad Shahjad Khan on 10th December, 2014. The complainant is also an injured in the said case. He has alleged that on 10th December, 2014 at about 4.45 p.m, one Riyaz and his friend – Ashraf i.e. the present applicant came there and there was an altercation between them on account of an earlier election incident. He has alleged that Riyaz and the present applicant started assaulting him. He has further alleged that as he started shouting, Riyaz's brothers viz, Sarfaraz, Danish, Abrar and his friend Arif also started abusing and assaulting the complainant and his friends. It is alleged that thereafter Riyaz pulled out a knife and assaulted the complainant on his back. It is alleged when the complainant's elder brother, Anwar and his friends Riyaz, Yusuf and Faiyaz tried to intervene, Riyaz assaulted Rafiq and Faiyaz on their right hand and back. It is further alleged that when the complainants' brother Anwar went to intervene, Riyaz's younger brother – Sarfaraz assaulted the complainant's brother with a knife in his stomach.

4. Learned Counsel for the Applicant submitted that although the name of the applicant finds place in the FIR, he has not assaulted either the complainant – Naushad, Rafique, Faiyaz or Anwar. He submitted that

Riyaz and Sarfaraz have been arrested and are presently in custody and that rest of the accused have already been enlarged on Regular bail.

5. Learned APP opposed the present application. He submitted that the name of the present applicant finds place in the FIR. Although the present applicant may not have assaulted the injured, he submitted that there was an unlawful assembly and therefore the applicant is also responsible for the acts of Riyaz and Sarfaraz. Learned APP on being asked, states that the present applicant has no antecedents.

6. Perused the papers. Although the name of the present applicant finds place in the FIR, he is not stated to have assaulted either the complainant – Naushad, Rafique, Faiyaz or Anwar. It appears that Riyaz and Sarfaraz have caused the aforesaid injuries to the injured.

7. Considering the role of the applicant, the applicant deserve to be 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 attend the Kherwadi Police Station, Mumbai, on the first Saturday of every month between 10.00 a.m., to 11.00 a.m, for a period of 12 months from today ;
- iii) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case.

8. Learned Counsel for the Applicant states that he will not file an application seeking modification of the aforesaid condition at clause (ii).

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.