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

ANTICIPATORY BAIL APPLICATION NO.1188 OF 2015

Akbar Husain Shafi Husain	... Applicant
Vs	
The Senior Police Inspector, Trombay Police Station and Anr.	... Respondents

Mr.A.H.Ponda a/w Mr.Chirag Shah, i/b Mr.Sharif Shaikh, for the Applicant.

Ms.Rutuja Ambekar, APP for the Respondent – State.

**CORAM : REVATI MOHITE DERE, J.
DATE : 31st 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. 158 of 2015, registered with the Trombay Police Station, Mumbai, for the alleged offences punishable under Section 307 r/w 34 of the Indian Penal Code.

3. The complainant is one Mr.Shabbir Khan Siddikh Khan. He has alleged that prior to the incident of 17th June, 2015, the present applicant had threatened him on phone on a couple of occasions, pursuant to which he had lodged a complaint with the Deputy Commissioner of Police. The said complaint application was made by the complainant on 16th July, 2014. The incident in question had taken place on 17th June, 2015. According to the complainant, two unknown persons came and that one of the unknown person assaulted the present applicant with a sword like weapon which landed on his upper limb. Accordingly, a complaint was lodged as against the two unknown persons and the description of the said unknown persons was given. It is alleged by the complainant that he suspected that the present applicant was behind the aforesaid assault on him.

4. Learned Counsel for the Applicant submitted that the present complaint has been lodged as against two unknown persons and only because there was a previous complaint application lodged by the complainant with the Deputy Commissioner of Police, by itself cannot be a ground to suspect that the applicant was responsible for the attack which took place on 17th June, 2015, after almost a year.

5. Learned APP states that the applicant has antecedents. On being asked, the learned APP states that there is no CDR record to show the presence of the applicant at the spot or that he was in touch with the two unknown persons who are alleged to have assaulted the complainant.

6. Perused the papers, in particular the FIR and the injury certificate of the complainant. Admittedly, the applicant was not present and has not assaulted the complainant. The complainant has disclosed the name of the applicant on suspicion, due to the previous threats given by the applicant. The injury certificate of the complainant also shows that the injury was caused by unknown persons. The injury was on the upper side of the left eyebrow. It is a CLW injury 2" X 2" cms. It also appears that the complainant had filed an affidavit in the Sessions Court stating that he had no issues with the applicant. It may also be noted, that merely because the applicant has antecedents, is not be itself a ground to reject the application.

7. Be that as it may, without going into the affidavit filed by the complainant, considering the nature of allegations as against the applicant, and the material on record, 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.50,000/- 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 Trombay Police Station, Mumbai ;
- iii) The Applicant shall attend the Trombay Police Station, Mumbai, on every Saturday between 10.00 a.m. to 12.00 noon till the filing of the charge-sheet and thereafter on the first Saturday of every month between 10.00 a.m. to 12.00 noon for a period of 12 months from today ;
- 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.

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

REVATI MOHITE DERE, J.