

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1492 OF 2015**

Sher Ali Pasha	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Moinuddin Khan for the Applicant

Mr. S. S. Pednekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

FRIDAY, 9th OCTOBER, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the 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 Arms Act.

3. According to the complainant - Mohammad Shafi Mohammad Rafiq Punjabi, an altercation took place between the family members of the complainant and the son of Akbar i.e. Sukkha and others on 27th June, 2015. The complainant has alleged that in the said incident, Akbar assaulted the complainant with an iron rod and Sukkha assaulted him with a chopper. The present applicant and one Shan Ali are alleged to have 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 rest of the accused with fist and kick blows. The complainant has specifically stated in the FIR that the present applicant assaulted one Zakir Hussain – the complainant's Uncle with an iron rod on his head.

4. Learned Counsel for the applicant submits that the applicant has been falsely implicated in the said case. He submits that the applicant was extorted from the said place and hence, his presence at the spot is doubtful. He submits that the CCTV footage does not show that the applicant was present on the spot. According to him, as there was a civil

dispute between the parties, the applicant has been falsely implicated in the said case.

5. Learned A.P.P opposed the bail application. He submitted that the complainant has specifically named the present applicant, stating that he assaulted his Uncle Zakir Hussain with an iron rod on his head. He further submits that the statement of Zakir Hussain also shows that it is the applicant who assaulted him on his head and there is an injury which corroborates the same.

6. Perused the papers. A perusal of the complaint and the statement of Zakir Hussain (injured) show that the present applicant assaulted Zakir Hussain with an iron rod on his head. There is a corresponding injury on the head of Zakir Hussain. The applicant has 10 antecedents, which are similar in nature, all pertaining to bodily related offences. Considering the overt act attributed to the applicant by the complainant and Zakir Hussain and the injury sustained by Zakir Hussain and the antecedents of the applicant, this is not a fit case to enlarge the applicant on pre-arrest bail. Accordingly, the application stands rejected.

7. If an application for regular bail is filed, the same will be decided on its own merits in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.