

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

ANTICIPATORY BAIL APPLICATION NO.1530 OF 2015

Nuresh Moda Gupta.Applicant.

VS.

The State of Maharashtra.Respondent.

Mr. S.K.Shelke for the Applicant.

Ms. S.S.Kaushik ,APP. for the State.

CORAM : A.S. GADKARI, J.**DATE : 19th November, 2015.****P.C. :**

The applicant is apprehending arrest in CR No.I-750 of 2015 registered with Mahatma Phule Chowk Police Station, Kalyan under Section 395, 427 of the I.P.C.

2) It is the prosecution case that on 22.8.2015 at about 8.30 a.m. when the complainant was present in his house, he saw that a tempo was coming from the road in a suspicious manner and therefore, he stopped the tempo. He saw 5-6 persons were sitting in the tempo and the scrap material of the NRC Company was loaded in the said tempo. When he questioned the persons who were sitting in the said tempo, they told him that they are the persons of "Moushi" and "Moreshe Gupta". The said persons thereafter abused and threatened the

complainant. The complainant therefore, raised alarm for neighbours. The neighbouring persons came on the spot and therefore, the persons from the tempo ran away. However, the persons from the locality who gathered at the spot were able to apprehend the driver of the said tempo. The driver of the said tempo upon being asked disclosed that the persons in the said tempo were regularly committing theft from the NRC company at the instance of the applicant and some other persons named in the complaint. On the basis of the information given by the complainant Mr. Ankush Jogdand the FIR bearing No.I-750 of 2015 has been registered by Mahatma Phule Chowk Police Station.

3) The learned counsel for the applicant submitted that on 22.8.015 he was at his native place and he was not present at the spot. He further contended that he has nothing to do with the present crime and that he has been falsely implicated in the crime and therefore, he is entitled to be released on bail.

4) The Investigating Officer has filed a brief affidavit dated 30.10.2015. He has placed on record the facts that the applicant was earlier involved in five similar type of cases. The learned counsel for the applicant submitted that the case at Sr. No.1 mentioned therein bearing CR No.I-141-2007 has resulted

into acquittal. It is to be noted here that apart from the said acquittal there are four other cases pending against the applicant and he was on bail in the said case while on bail, he has committed the present crime. In view of the fact that the driver of the said tempo has specifically named the complicity of the present applicant in the crime and that the applicant has been alleged to have committed the present crime while on bail in earlier cases, I am not inclined to grant pre-arrest bail to the applicant and therefore, present application is dismissed.

(A.S. GADKARI, J.)