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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1551 OF 2015**

Firoz Abdul Gani Qureshi

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Hassnain Kaazi Sayyed, for the Applicant

Ms. Rutuja Ambekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 19th OCTOBER, 2015

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 94 of 2015 registered with the Lashkar Police Station, for the alleged offences punishable under Sections 143, 147, 148, 149, 341, 307, 504, 427 of the Indian Penal Code and under Section 4(25) of the Arms Act and under Sections 37(1) r/w 135 of the Bombay Police Act.
3. It appears that on 4th July, 2015 the First Informant – Milind

Ekbote had lodged a complaint with the Lashkar Police Station, pursuant to which some cows, oxes came to be seized from the area of Sunrise Bakery, Camp. It appears that it is pursuant to this complaint lodged by the First Informant, that led to the incident which took place on 6th July, 2015. It is alleged by the complainant – Milind Ekbote that when he was traveling in his Tavera Car, some 20 unknown persons came on 10 motor cycles, followed him and attacked him. It is alleged that the accused broke the glass panes of the Tavera Car with deadly weapons and caused damage to the car. It is alleged that the bodyguard of the complainant, who was present in the car, threatened the accused by a pistol, pursuant to which the attackers fled.

4. Learned Counsel for the Applicant urged that the applicant has been falsely implicated in the said case. He submitted that three other co-accused were enlarged on Regular Bail and a perusal of the order enlarging them on bail shows, that there was no recovery of any weapons at their instance. He further submitted that despite the fact, that four months have lapsed nothing has been recovered from any of the accused. He submitted that even otherwise the name of the applicant is not disclosed in the FIR.

He submitted that no injury was caused to the complainant nor any person in the vehicle was injured in the said incident. He submitted that the applicant's mother is suffering from cancer and has relied on certain documents in support of the same.

5. Learned APP opposed the application. She submitted that the applicant has been named by one Advocate Prashant Yadav as being present on the spot. She submitted that the question of falsely implicating the applicant does not arise, inasmuch as, the complaint has been lodged as against 20 unknown persons. According to her, the applicant has been specifically named by an independent witness – Prashant Yadav. She further submitted that there are about 16 other persons who are absconding and are yet to be arrested.

6. Perused the papers. The question of parity will not apply inasmuch as, the other three co-accused have been enlarged on regular bail and therefore the observations made by the learned Judge in the said order will have no application to the present application. A perusal of the FIR shows that the assailants were armed with deadly weapons and had come

on motorcycles to commit the alleged offences. It appears that the assailants could not achieve their object as the bodyguard of the complainant was present and he pointed the revolver at them, pursuant to which the assailants fled from the spot. It appears that there is one eye-witness Advocate Prashant Yadav who has specifically named the present applicant, which shows the complicity of the present applicant. The Complainant is stated to be a President of the Goseva Sangh. It appears that pursuant to the complaint lodged by the complainant, cows etc were seized and hence the accused were enraged, leading to the aforesaid incident. The applicant cannot be granted a anticipatory bail only because his mother is suffering from cancer.

7. Considering the nature of allegations and the manner in which the complainant was attacked, this is not a fit case to exercise the discretionary relief under Section 438 of the Code of Criminal Procedure.

8. Hence, the Application for anticipatory bail is rejected and disposed of as such.

9. It is made clear that if an application for regular bail is filed, the same shall be considered on its own merits, uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.