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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1559 OF 2015**

Suleman Usman Sayyed

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.S.M.Shoaib, for the Applicant

Mr. Y. M. Nakhwa, 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. 275 of 2015 registered with the Shivaji Nagar Police Station, for the alleged offences punishable under Sections 326, 323, 504, 506(II), 34 of the Indian Penal Code and under Section 4 and 25 of the Arms Act.
3. According to the complainant/injured the incident took place on 26th May, 2015 at about 8.30 p.m. He has alleged that when he was

standing near his house, co-accused - Ali came there and held his hands and that the applicant slapped and abused him in filthy language. It is alleged that thereafter the applicant made a phone call to the co-accused – Faizan and Sameer, pursuant to which both came to the spot armed with swords. It is alleged that co-accused – Sameer attacked the complainant on his right hand and back and the present applicant assaulted the complainant on his head. It is further stated that as he cried for help, people came and rescued him, pursuant to which the accused ran away from the spot.

4. Learned Counsel for the applicant submitted that a perusal of the order enlarging the co-accused on regular bail shows that the injuries sustained by the complainant are simple in nature.

5. Learned APP opposed the application. He submitted that the applicant is the perpetrator of the offence and it is at his instance that the co-accused – Faizan and Sameer, came to the spot, armed with weapons i.e. swords. He submitted that the present applicant assaulted the complainant with a sword on his head.

6. Perused the injury certificate of the complainant. It appears that there is incised wound of 5 cms X 0.5 cms X 0.5 cms on the right context region. It appears to have been inflicted by a sharp weapon.

7. Considering the manner in which the assault has taken place, the role of the applicant and the overt act attributed to him, this is not a fit case to exercise the discretionary powers under Section 438 of the Cr.P.C.

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.