

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO.1846 OF 2015**

Gulam Salani Gulam Ajdani Shaikh. ...Applicant.

versus

The State of Maharashtra. ..Respondent.

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Mr.S.V.Kotwal i/by P.P. Runwal for the Applicant.

Ms.M.H.Mhatre, APP. for the State.

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CORAM : A.S. GADKARI, J.**DATE : 8th December 2015****P.C. :**

The applicant is seeking pre-arrest bail in CR No.211 of 2015 registered with Naupada Police Station, Thane under Section 143,148,149,307,323,397,504 read with 34 of the I.P.C. The complainant is a practicing Advocate in the Court at Thane has registered the FIR with the police, on the allegation that the complainant had accepted a brief on behalf of the other side with whom the present applicant and his brother was having enmity. The complainant Advocate was seriously defending, and got necessary relief for his client namely Akram Shaikh. Feeling aggrieved by the act of the complainant Advocate the applicant, his brother and other accused persons used to threat the complainant whenever they see him. The date of incident of the

present crime is 24.4.2015. The complainant was returning to home after finishing his Court work. That, near the highway he noticed his friend and therefore, he stopped there for chit chatting. At that time a Honda city car came there and the applicant and other three persons got down from the said car. They abused the complainant and thereafter started beating him with fist and kick blows. The applicant took out sharp edged weapon and gave blow of the same on the neck of the complainant. In the said attack the chain made up of gold metal was cut which was snatched by the applicant. When the people in the locality gathered there, the applicant and other persons ran away from the spot. The complainant thereafter gave phone call to his colleague and called him at the spot and thereafter, the complainant was admitted in the Civil Hospital, Thane.

2) Learned counsel or the applicant submitted that Section 307 of the I.P.C. cannot be attracted in the present case because the medical certificate speaks otherwise. He also submitted that the incident of chain snatching which has been mentioned by the complainant has been narrated in the FIR only to attract Section 397 of the I.P.C. He further contended that as far as other accused persons are concerned charge sheet has already been filed against them and there is no need for custodial

interrogation of the applicant.

3) I have perused the charge sheet filed against the other accused persons. The FIR given by the complainant is corroborated not only by two eye witnesses but also by the medical certificate which is at Page 46 to the present application. The record further discloses that though the other accused persons were arrested and charge sheet has now been filed, however, the gold chain which was allegedly snatched by the applicant is yet to be recovered. Apart from the said fact that the weapon used by the applicant in the present crime is also to be recovered. The nature of offence alleged by the complainant in my opinion is of very serious in nature. The recovery of the aforesaid articles is not possible without there being custodial interrogation of the applicant in the present crime. It is therefore, not just and proper to release the applicant on pre-arrest bail. I therefore, find no merits in the present application and therefore, the application is accordingly rejected.

(A.S. GADKARI, J.)