

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1880 OF 2015

Rajesh S. Lopies ..Applicant.
Versus
The State of Maharashtra ... Respondent.

Mr.R.S.Kate for the Applicant.
Ms. S.S.Kaushik,APP. for the State.
Mr.Chandan More from Arnala Sagari Police Station Present.

CORAM: A.S. GADKARI, J.

DATE : 16TH DECEMBER, 2015

P.C.:

The applicant is apprehending arrest in CR No.I-172 of 2015 registered with Arnala Sagari Police Station, Palghar under section 307,324,323,447,143,147,148,149,504,506 of the I.P.C., under section 5, 27(1), 30 of the Arms Act and under section 135 of the Maharashtra Police Act.

2) The complainant Luis Markus D'mello has lodged FIR dated 3.10.2015 alleging that there is a long standing litigation between his family and the family of Mates Tuskano on the issue of partition of the landed property situated at Village Agashi, Taluka Vasai, District Palghar. He has stated that on 3.10.2015 at 9.30 a.m. the applicant along with Mates Tuskano came to the disputed land

and started cutting the trees in the said property. They also tried to take the possession of the said property by fixing iron poles on it. The complainant thereafter questioned the said persons about their act. The applicant and other accused persons got enraged and started beating the complainant and his family members with the aid of iron rod, hammer, sickle and with fist and kick blows. The role attributed in the said crime to the present applicant is that he gave fist and kick blows to the complainant and his family members. It is further stated in the said complaint that accused No.1 Mates Tuskano fired around from his revolver to disburse and pacify the said scuffle. A plain reading of the FIR discloses that the applicant was a member of the said unlawful assembly along with other accused persons. The learned counsel for the applicant submitted that as far as other accused persons are concerned they have been released on regular bail by the Trial Court. The Trial Court while releasing the said persons has observed that the investigation in the present crime is almost over.

3) I have perused the documents annexed to the application and the documents of the investigation. A plain reading of the FIR discloses that the applicant was a member of the said unlawful assembly and has taken active part in assaulting the family members

of the complainant. It further appears that from the date of commission of offence the applicant is not traceable. It is further apparent that a fire arm has been used in the present crime by accused No.1 Mates Tuskano. Taking into consideration the facts involved in the present case and the fact that the applicant was the member of unlawful assembly in the present crime and has taken active part in assaulting the complainant and his family members the custodial interrogation of applicant is necessary and therefore, I find that there are no merits in the present application and the same is rejected.

(A.S.GADKARI, J.)