

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.771 OF 2016

**SHAHID SALIM QURESHI @ SHAHID)
MENDHA)...APPLICANT**

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

WITH

ANTICIPATORY BAIL APPLICATION NO.16 OF 2016

DANISH ABDUL RASHID KHUTE AND ANR.)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA & ANR.)...RESPONDENTS

Shri Rohan Surve, Advocate for the Applicant in A.B.A.No.771 of 2016.

Shri Niranjana Mundargi, Advocate for Applicant in A.B.A.No.16 of 2016.

Shri H.J.Dedhia, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 13th JUNE 2016.

P.C. :

1 Heard learned counsel for the parties. Applicant involved in Crime No.I-337 of 205 registered by Bhiwandi City Police Station for the offences punishable under Sections 341, 342, 354, 364A, 323, 504, 506, 392, 395, 385 and 500 of the IPC and Sections 67, 67A and 67B of I.T.Act, has sought pre-arrest bail. Applicant in A.B.A.No.16 of 2016 was granted interim protection while no such protection was granted to applicant in A.B.A.No.771 of 2016.

2 Perused the case papers. Perused the copy of charge-sheet annexed with the application as well as documents produced by the prosecution. From the FIR it appears that on 28th September 2015, at 6.15 pm the complainant along with his girl friend had met at some place and proceeded to a hotel at Bhiwandi and left from the said hotel within half an hour, when they were followed by three motor-cyclists who obstructed them,

where four to five other persons also gathered, who abused the complainant and his girl friend and from this spot proceeded with them to a room on ground floor situate at Apna clinic, Bhiwandi, where they were locked. It is also alleged that amount of Rs.11,000/- and one mobile phone was snatched by these persons who then prepared a video clip of complainant and his girlfriend and demanded Rs.2 Lac for not making the said clip viral on facebook or on whatsapp. However, since complainant had not make the payment of such amount of Rs.2 Lac demanded, made the clip viral on video, whatsapp as well as on facebook, causing great humiliation and defamation to the complainant and his girlfriend and in this background complaint came to be lodged.

3 At this stage, Advocate Shri Swapnil holding for Advocate Dinesh Tiwari appears and prays to keep back the matter for sometime for want of presence of Advocate Dinesh Tiwari. Keep Back.

LATER ON AT 3.00 p.m.

4 In spite of keeping back the matter, learned Advocate for intervenor is not present. Learned APP on his behalf makes a statement that according to the information supplied to the learned APP by the learned counsel, he along with his Application for Intervention, has placed on record, copies of similar type of offences registered against the applicant, and has thus contended that having considering the modus operandi of applicant in committing similar type of offences, application be rejected. In addition to this, learned APP has also tendered at the bar copies of three non-cognizable offences registered against the applicant Danish in A.B.A.No.16 of 2016. All these non-cognizable offences are registered for the offence punishable under section 507 of the IPC.

5 From the documents annexed to the application, it reveals that in all, there are 16 accused, and names of applicants are not in the FIR and names of only seven accused are mentioned therein.

6 Admittedly, incident in question took place on 28th September 2015 of which report is lodged on 4th December 2015, and in a supplementary statement dated 5th December 2015, complainant has identified applicant in A.B.A.No.771 of 2016 as one of the co-accused who was present along with others at the time of the incident. Similarly, there are statements of four other persons who have stated that they have seen the viral video clippings on their *Whats app* by some of the accused persons. Based on these facts, learned APP has opposed the application.

7 The learned trial Court, while rejecting the application had observed that though co-accused are granted bail, charge-sheet against the said accused has been filed, and no charge-sheet is by then filed against the said accused persons, and thus observing that Custodial Interrogation was necessary, rejected the applications.

8 Perusal of charge-sheet reveals that both the applicants are now charge-sheeted. However, there is an endorsement put by

the Investigating Agency that since their application for pre-arrest bail is pending, no further investigation could be effectively carried out , and if necessary, supplementary charge-sheet can be filed against the applicants.

9 Considering the fact that the investigation is complete, and the nature of offence involved, applications are liable to be allowed by imposing suitable conditions upon both the applicants so as to facilitate further investigation as per order below.

ORDER

Interim bail granted to the applicants in A.B.A.No. 16 of 2016 stands confirmed.

In the event of arrest of applicant in A.B.A.771 of 2016, he shall be released on bail in the sum of Rs.25,000/- with one surety in like amount.

The applicants in both the applications, on being released on bail shall attend the Investigating Officer on 18th, 19th, 20th and 22nd June 2016.

They shall not leave the jurisdiction of this Court, and shall mark their presence with the trial Court on the fixed date of hearing.

(P. N. DESHMUKH, J.)