

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Amk

ANTICIPATORY BAIL APPLICATION NO. 243 OF 2016

Mr. Mukesh Sarabjit Yadav

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Niranjan Mundargi for the Applicant.

Mr. S. H. Yadav, APP for the Respondent-State.

Mr. S. M. Solse, API, Waliv Police Station present.

CORAM : A. S. GADKARI, J.

DATE : 9th FEBRUARY, 2016.

P. C. :

1. The applicant is apprehending his arrest in C. R. No. I-498/2014 dated 28.11.2014 registered with Waliv Police Station, District Palghar for the offences punishable under Sections 307, 143, 147, 148, 149, 323, 504 of the Indian Penal Code.

2. It is the case of the complainant Yadneshwar Bhart Gharat that on 28.11.2014 at about 10.30 p.m. accused Rakesh Yadav and other persons had altercation with him. That on 29.11.2014 at about 9.30 p.m. the complainant Yadneshwar, his brother Bhimrao and his friend Lalit had been to Bisleri company for purchasing water. At that

time the applicant along with two other accused persons armed with sticks and iron rod came at the spot and questioned the complainant, as to why he is eve-teasing his sister. That co-accused Rakesh, applicant and other accused persons thereafter started assaulting the complainant and other persons. It is specifically stated that the applicant gave a blow with the aid of iron rod on the head of Bhimrao. That co-accused Rakesh gave a blow with the aid of iron rod on the head of the complainant due to which there was grievous hurt. In the premise the said FIR is lodged.

3. During the course of investigation, the said co-accused Rakesh was arrested by police and subsequently released on bail. After completion of investigation the police have filed charge-sheet against Rakesh.

The record further discloses that the co-accused in the present crime namely Rakesh Yadav has lodged FIR dated 30.11.2014 bearing No.495/2014 under Sections 307, 143, 147, 148, 149, 323, 504, 506, 326, 354 of the Indian Penal Code against the complainant in the present crime i.e. Yadneshwar Gharat and others. In the FIR lodged by Rakesh Yadav bearing No. 495/14 it is specifically mentioned that the complainant in the present crime and other persons used to pass comments against his sister, eve-teased her and also aggravated their

acts on 28.11.2014 due to which the co-accused went to question the said persons. The said persons from the complainant's group threatened Rakesh with dire consequences. On 29.11.2014 the applicant, his brother Rakesh and other persons went near the gate of the Bisleri company and asked the persons from complainant's group to come out. After the persons from Bisleri company came out, the applicant herein, his brother and other persons questioned them as to why they are eve-teasing their sister. At that time the complainant in the present crime and other accused persons assaulted the present applicant, Rakesh and other persons. The said Rakesh therefore lodged FIR No. 495 of 2014.

4. As far as the present crime i.e. C.R. No. 498 of 2014 is concerned the record discloses that the role attributed to the applicant is that, he assaulted Bhimrao with an iron rod on his head. The medical certificate discloses that there was a simple superficial wound over the vertex. The weapons used in the present crime have been discovered at the instance of the co-accused by effecting discovery panchnama dated 05.12.2014.

5. After taking into consideration the fact that the injury caused to the witness namely Bhimrao is simple superficial wound and the fact that the weapon used in the crime has already been

recovered at the instance of a co-accused, I do not find the custodial interrogation of the applicant is warranted. It further appears to me that with a view to question the complainant in the present crime about the eve-teasing of his sister, the applicant had been to the spot of incident and the said fact has not been denied by the applicant. The cause germane to the present crime i.e. C. R. No. 498/14 and also C. R. No. 495/14 is the eve-teasing to the sister of the applicant by the complainant and his group members in the present crime. In view of the above the applicant has made out a case for his release on pre-arrest.

6. Hence, the following order:

- (i) In the event of arrest of the applicant in C. R. No. 498 of 2014 registered with Waliv Police Station, Dist.- Palghar the applicant shall be released on bail on his furnishing a P. R. Bond of Rs.25,000/- with one or two sureties in the like amount.
- (ii) The applicant shall attend the Investigating Officer as and when called for between 10.00 a.m. to 12.00 noon till the filing of the charge-sheet. It is needless to mention that before calling the applicant to the police station, the Investigating Officer shall issue notice under Section 160 of the Cr.PC.

(iii) The applicant shall not tamper with evidence and/or influence the prosecution witnesses.

(iv) The application is allowed in the above terms.

(A. S. GADKARI, J.)