

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.254 OF 2016

Mr. Rizwan Akbar Ali Choudhary	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Balwant Salunkhe, Adv. i/b. Subhash Hulyalkar, Adv. for the applicant.

Mr. J.H. Ramugade, APP for the State.

Mr. H.V. Mane, PSI, Pimpri Police Station present.

CORAM : SMT ANUJA PRABHUDESSAI, J.

DATE : 15th February, 2016.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in Crime No.664 of 2015 registered with Pimpri Police Station, Pune for offences punishable under Sections 143, 147, 149, 326 and 504 of the IPC.

2. The case of the prosecution in brief is that on 22nd December, 2015 at about 7.30 pm the applicant and others stabbed Mangesh Motirave by means of knife and thereby attempted to cause his death. The said crime came to be registered pursuant to the FIR lodged by Mangesh Motirave. Apprehending his arrest the applicant had filed anticipatory bail before the Addl. Sessions Court, Pune. Said

application came to be dismissed on 8th January, 2016. Hence the present application.

3. Mr. Salunkhe, the learned counsel for the applicant submitted that the applicant is not involved in committing said crime. The learned counsel for the applicant drawing attention to the FIR lodged by one Aslam Rizwan Shaikh submits that the applicant herein was a victim and that his friend had already lodged the FIR against the complainant in the present case. The learned counsel for the applicant has further submitted that the applicant has been falsely implicated. He further submits that the applicant is a student and that his presence is not required for custodial interrogation.

4. Mr. Ramugade, the learned APP for the State has submitted that the FIR prima facie discloses the involvement of the applicant. The statements of the other witnesses also corroborate the contents of the FIR. He has further stated that medical certificate also prima facie reveals that the applicant is involved in committing crime. Hence considering the gravity of the offence the applicant is not entitled for bail.

5. I have perused the records and considered the submissions advanced by Mr. Salunkhe, the learned counsel for the applicant and Mr. Ramugade, the learned APP for the State. The FIR lodged by Mangesh Motirave prima facie reveals that on 22nd December, 2015 at 7.30 pm one Nandan Gaikwad told him the applicant herein and his friends Aslaan and Saurabh were fighting in the garden and requested him to intervene. The complainant thereafter went to the garden but even before he could intervene, the said persons including the applicant herein assaulted him by wooden sticks, kicks and blows. He has stated that the applicant thereafter inflicted injuries on his neck, chest and arms by means of a knife and threatened to cause his death.

6. The FIR prima facie reveals that the applicant herein was involved in stabbing the complainant. The medical certificate prima facie reveals that the complainant Mangesh had sustained several wounds over his body which fact prima facie corroborates the allegations in the complaint. The applicant is not entitled for bail as the offence is of serious nature and the same needs to be thoroughly investigated.

7. It is however to be noted that the investigation is far from

being satisfactory. This application has taken up for hearing on 9th February, 2016, it was noticed that the investigating officer PSI H.V. Mane had not collected the medical certificate more than a month from the date of the incident. It was only pursuant to the directions given by this Court that he had collected the medical certificate. The records particularly the FIR indicates that one Nandan Gaikwad was an eye witness to the said incident. The investigating officer who is present before the Court has stated that till date he has not recorded the statement of the said witness. It appears that the investigation of this crime is being conducted in a very casual manner. It would therefore be appropriate that the officer senior to the investigating officer shall look into the matter and ensures that no loopholes are left deliberately or otherwise.

8. For the reasons stated above, the application stands dismissed.

(ANUJA PRABHUDESSAI, J.)