

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.305 OF 2016

Mr. Omprakash Ramnath Nuhure.Applicant.

Vs.

The State of Maharashtra.Respondent.

Mr. Raj J. Khude for the Applicant.

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

Mr. N.K.Pardeshi, PI from Kashimira Police Station present.

CORAM : A.S.GADKARI, J.

DATE : 17TH FEBRUARY, 2016.

PC:

1) This is an application for pre-arrest bail by the applicant apprehending arrest in CR No.I-702/2015 dated 12.12.2015 registered with Kashimira Police Station, Thane (Rural) under Sections 354,323,504 and 506 of the Indian Penal Code.

The complainant Ms. Priyanka Shetty has lodged the first information report dated 12.12.2015 stating that on that day at about 12.00 O'clock in the noon her parents had been to temple and she along with her brother were at residence. At about

5.30p.m. (17.30) the door bell of her house rang consistently and therefore, she opened the door. She saw that the applicant was assaulting her father with fist blows. The complainant intervened to rescue the said scuffle. At that time the applicant abused her caught hold her hands and touched her breast, due to which she felt embarrassed and therefore, she shouted. The people from the neighbouring flats had gathered at the spot and accosted the applicant. In the premise, the first information report is lodged.

2) The learned counsel for the applicant submitted that the said incident had occurred during the course of scuffle between the family members of the complainant and himself. He further submitted that the applicant has also lodged first information report bearing CR No.703 of 2015 dated 12.12.2015 with the same police station under Section 328, 323, 504, 506 of the Indian Penal Code. He further submitted that as a matter of fact when the applicant was getting down from the staircase of the said building, the brother and father of the complainant assaulted him with fist and kick blows. That, the applicant was also assaulted on his head by iron rod which was handed over by the complainant to her brother who in turn assaulted the complainant.

3) I have perused the documents annexed to the

application and the papers of investigation. It prima facie appears from the first information report lodged by the complainant that the said incident has occurred during the course of the scuffle between the applicant on one side and the family members of the complainant on other side. It further appears to me that the applicant did not have any intention to commit any act as contemplated under Section-354 of the IPC and the benefit of doubt has to be given to the applicant at this stage.

4) The record further discloses that the Learned Trial Court while rejecting the anticipatory bail application bearing NO.318/2015 preferred by the applicant has observed that the applicant has committed several such offenses and the proceeding under Section 107 of the Criminal Procedure Code has been initiated against him. On a query put by this Court to the learned APP, it was informed that the said offences are non cognizable offences registered against the applicant. In view of the above, the applicant had made out a case for his release on pre-arrest bail.

Hence, the following order.

ORDER

a) In the event of arrest of the applicant in CR NO.I-

702/2015 registered with Kashimira Police Station, Thane (Rural) the applicant shall be released on his furnishing PR bond of Rs.25,000/-with one or two local solvent sureties in the like amount.

- b) The applicant shall not tamper with the evidence and /or influence the prosecution witnesses.
- c) The application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)