

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.340 OF 2016
with
CRIMINAL APPLICATION NO.297 OF 2016

Bahadur Ramkishan Karotiya

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Ganesh Gole i/b Ms.M.A. Gowalani for the Applicant

Ms.S.S. Kaushik, APP, for Respondent – State

Mr.A.r. Bhakhim for Intervener in Application No.297 of 2016

Mr.A.B. Wale, P.C., Central Police Station, Ulhasnagar-3, Thane – present

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **APRIL 7, 2016**

P.C.:

1. The applicant-accused is prosecuted for the offences punishable under sections 326, 324, 307, 504, 143, 146, 147, 148, 149 of the Indian Penal Code and under sections 3 and 4 of the Arms Act and under section 37(1) r/w section 135 of Bombay Police Act in C.R. No.I-635 of 2015 registered with Central Police station, Ulhasnagar-3 at the instance of one Rohan Ingale. It is the case of the complainant that he was assaulted by the applicant and other 6 co-accused persons on 11.12.2015 with an iron and wooden rod and he sustained injuries and also by sword on his head and hand.

2. Perused the order dated 23.2.2016 passed by my predecessor while granting interim protection wherein it was mentioned that affidavits were filed by the complainant that he has mistakenly taken the name of this applicant-accused Bahadur Karotiya. My predecessor gave time to the police to verify the truthfulness of this affidavit. Today, the learned Prosecutor produced statement of the complainant Rohan Ingale, recorded by the Investigating Officer on 26.3.2016. In this statement, the complainant has maintained that the applicant-accused and his son Monty Karotiya and other persons had surrounded him on 11.12.2015 and assaulted him. He has stated that Monty was holding the sword and the applicant-accused was holding iron rod. It is also mentioned that he was forced to sign some documents and, therefore, he has filed the affidavit before the trial Court. Today, an unregistered application is moved by the Intervener/Complainant, who has stated on verification, that he is not interested to prosecute his case and he wants to settle the matter with the applicant-accused.

3. The learned Counsel for the applicant has submitted that there is a cross complaint by the applicant-accused Bahadur Karotiya under sections 324 and 3323 lodged on the same day i.e., on 12.12.2012 where the complainant is the accused.

4. I have perused the statement, the affidavit as also the intervention application. There is a cross case. However, the case registered by the present complainant is prior to the case registered by the applicant. Perused the injury certificate which shows that there are 5 to 6 incise wounds out of which one is grievous. The offence is registered under section 307 of the Indian Penal Code. It is against the State. The statement of the complainant and his affidavit and the intervention application clearly shows that the complainant is pressurised and he has filed this application under pressure. However, after going through the FIR and the cross-complaint and also considering the fact that the applicant was not the one, who was holding sword but one Monty, the son of the applicant-accused was holding the sword and the grievous wound is incise wound caused by the sword.

5. In the circumstances, therefore, I grant pre-arrest bail on the following terms:

- i) In the event of arrest, the applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/- with one or two solvent sureties in the like amount;
- ii) The applicant-accused shall cooperate with the Investigating Officer and attend the concerned police station on every Saturday from 6pm to 8pm, till filing of chargesheet;

- iii) The applicant-accused shall not tamper with the evidence or pressurise the complainant or any witnesses in any manner;
- iv) The applicant-accused shall not indulge into any criminal activity and especially against human body;
- v) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.
- vi) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

5. Application for intervention stands disposed of.

(MRIDULA BHATKAR, J.)