

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.360 OF 2016

Bashir Ahmad S. Idrisi vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Ram Upadhyay for the Applicant.

Smt.PP.Shinde, APP for the State.

Mr.Tapale,PI from Wadala T.T. Police Station present.

CORAM : A.S.GADKARI, J.

DATE : 26th February, 2016

P.C.

The applicant is apprehending arrest in CR No.444 of 2015 dated 8.9.2014 registered with Wadala T.T. Police Station under Section 326, 504, 141, 143, 147,149 of the Indian Penal Code.

2) The complainant Zakir Ali Khan has lodged the complaint on 8.9.2015 stating that on 7.9.2015 at about 10.00 p.m. the co-accused Vasiullah Khan was assaulting the cousin brother of the complainant namely Azar. The complainant intervened in the said fight and questioned the said Wasiullah Khan. At that time the elder brother of Wasiullah Khan namely Masiullah Khan came there and assaulted the complainant with knife on his head. At that time, Shabbir, brother of the complainant was returning back to the house and he also noticed the said fight. Shabbir tried to intervene in the said fight. That, Masiullah also assaulted the said Shabbir by a knife. After hearing the commotion, the other co accused Samiullah,

Kalimulla and Alimullla and the present applicant who is the brother in law of Vasiulla Masiullha came at the scene of offence by holding bamboo stick and assaulted the complainant Zakir Ali. In the premise, the first information report is lodged.

3) The record discloses that after completion of the investigation, police have filed the charge sheet against other accused persons. That, the other five accused persons are arrested and released on bail.

4) The learned counsel for the applicant submitted that as a matter of fact the mother in law of the applicant namely Smt. Sahadinusa Idrisi had lodged a complaint against the complainant herein and other accused persons for an act under Section 376,324, 141,143. 147,149 of the Indian Penal Code and under Sections 4,8,10,12 of the POCSO Act for the misdeeds committed by the complainant Zakir Ali Khan and other accused against her grand daughter. The learned counsel contended that as a counter blast the present crime is registered against the applicant and his family members. The record further discloses that the medical certificate issued by the Lokmanya Tilak Hospital, Sion to Shabbir Khan discloses that he had suffered only one CLW on his frontal region of head and the nature of injury is mentioned as simple injury. As far as complainant Zakir Khan is concerned he has suffered injury on temporal area and the nature of the injury as mentioned in the certificate is simple. It further appears from the first information report itself that no specific role is attributed to the present applicant. The weapons used in the present crime i.e. knife and bamboo sticks have been recovered at the instance of Masiullah.

Thus, there is no question of recovery of any weapon at the instance of the present applicant in the present crime.

5) After taking into consideration the evidence available on record and the facts stated herein above, I am of the opinion that the applicant has made out a case for grant of pre-arrest bail.

Hence, the following order.

ORDER

a) In the event of arrest of the applicant in CR No.444/2015 registered with Wadala T.T.Police Station, the applicant shall be released on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

b) The applicant shall attend the Investigating officer as and when called for between 11.00 a.m. to 1.00 p.m. till the filing of the charge sheet against him. It is needless to mention that before calling the applicant to the police station the Investigating officer shall issue a notice under Section 160 of the Cr.PC.

c) The applicant shall not tamper with the evidence and or influence the prosecution witnesses.

d) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)