

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.373 OF 2016

Mr.Amir Najmulhasan Khan

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Vivek Singh i/b S.S. Mansuri for the Applicant

Ms.G.P. Mulekar, APP, for Respondent – State

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

DATE: **APRIL 27, 2016**

P.C.:

1. This application is moved for pre-arrest bail as the applicant-accused is being prosecuted for the offences punishable under sections 326 r/w 34 of the Indian Penal Code in C.R. No.496 of 2015 with Wadala T.T. police station at the instance of one Rashid ul Hasan Khan on 28.9.2015. It is his case that there is a dispute between the complainant and his brother Nazmulhasan Khan, who is having a shop near his house. On 28.9.2015 at 2pm, his brother Nazmulhasan and his sons Salman and Usman and a relative had quarelled and they assaulted the complainant on his head, chest and hand. Salman and Amir assaulted him with iron pipe. Hence, he gave the complaint.

2. The learned Counsel for the applicant has submitted that the applicant-accused gave complaint on the same day i.e., on 28.9.2015,

which is registered at C.R. No.497 of 2015 at Wadala T.T. Police station under section 326 r/w section 34 of the Indian Penal Code. The learned Counsel submitted that there was a fight between both the brothers and their children. The applicant is also injured. It is his first offence and, therefore, he be protected.

3. Learned Prosecutor has opposed the application. She relied on the injury certificate which shows that the injured had sustained grievous hurt to his left fore arm.

4. Perused the FIR, the injury certificate. It appears that it was a sudden and free fight between the brothers and their children. There are cross complaints. It is confirmed that the applicant-accused has no antecedents. In view of this, I allow this application 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.20,000/- 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 Tuesday and Saturday from 7pm to 8pm, till filing of chargesheet.
- iii. The applicant-accused shall not tamper with the evidence or pressurise the complainant;

- iv. The applicant-accused shall not indulge into any criminal activity;
 - 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) the Anticipatory Bail Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)