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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 503 of 2016

Nilesh Kanti Chauhan ..Applicant.
Vs
The State of Maharashtra ..Respondent.

Mr Akram Kapoor for the applicant.
Smt. S.S.Kaushik, APP for the State.
API Burud, Nagpada P.S. present.

CORAM : A.S.GADKARI, J.
DATE : 10th October, 2016

P.C.

1) The applicant is apprehending arrest in CR No.63/2016 registered with Nagpada Police Station, Mumbai for the offence punishable under sections 326, 504 read with section 34 of the Indian Penal Code.

2) The first information report is lodged by Shri Yasin S. Shaikh. It is stated in the said report that the co-accused Imran Baig and the applicant assaulted the first informant due to the earlier dispute. That the applicant assaulted the first informant on his shoulder, back, hands and legs with a bamboo. During the said assault, Imran Baig suffered bleeding injury on his head. In the premise the first information report is lodged.

3) The learned counsel for the applicant submitted that

there is a cross case filed by Imran Baig i.e. the co-accused in the present case against the complainant in CR No.63/2016 i.e. the present Crime. He submitted that on the date of the incident the said Imran was in hospital and therefore, the first information report lodged against the applicant and other accused persons is a false case. He further submitted that the said Imran Baig (co-accused in the present crime) has lodged the first information report No. 58/2016 dated 10/8/2016 with the same police station which is prior in point of time and as a counter blast to the registration of the said first information report, the present crime is registered by the accused in Crime No.58/2016. He submitted that in pursuance of the order dated 21/3/2016 passed by this Court the applicant has attended the Investigating Officer and there is no need for his custodial interrogation hereinafter. He, therefore, prayed that the applicant may be released on pre-arrest bail.

4) The learned APP, on instructions, submitted that though the applicant has attended the Investigating Officer on stipulated dates he did not cooperate in the process of investigation. The recovery of the said bamboo stick which is alleged to have been used by the applicant in the present crime is yet to be effected.

5) That there is a case and a counter case between the parties

interse. Therefore, the presence of the applicant at the spot of the incident is not in dispute. The complainant and other injured persons have sustained grievous injuries in the present crime. The involvement of the applicant in the present crime is sufficiently established by the prosecution. The custodial interrogation of the applicant is necessary for recovery of the weapon used in the present crime.

6) In view of the above and after taking into consideration the serious allegations against the applicant and the gravity of the offence, this Court is of the view that the applicant cannot be protected by way of pre-arrest bail.

The application is accordingly dismissed.

(A.S. GADKARI, J.)