

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.613 OF 2016

Rohit R. Sartape @ Gotya

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Kailash D. Lokare for the Applicant

Ms.P.P. Shinde, APP, for Respondent – State

Mr.A.G. Pawar, API, Tilak Nagar police station – present

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

DATE: **APRIL 5, 2016**

P.C.:

1. This application is for pre-arrest bail preferred by the applicant-accused as his anticipatory bail application was rejected by the Sessions Court after hearing prosecution. Today, the Investigating Officer is present with the file and hence, the present application is heard finally at this stage itself.

2. The applicant-accused is prosecuted for the offences punishable under sections 323, 326 r/w 34 of the Indian Penal Code in C.R. No.67 of 2016 registered with the Tilak Nagar Police station, Mumbai on 5.3.2016 at the instance of one Mohammed Tajuddin Mulli. It is the case of the prosecution that on 4.3.2016, when he was standing near one Hanuman temple at around 6pm, when he and his friends were beaten up by the

applicant-accused and co-accused Shenharya and Maya with iron rod and the applicant-accused and the other one person mounted assault with wooden bamboo stick on the back of the complainant. It was a head injury and fracture was sustained by the complainant. Hence, this offence was registered.

3. The learned Counsel for the applicant has submitted that the applicant-accused is innocent. He has not committed any offence. The applicant-accused has no criminal antecedents and hence, he be granted pre-arrest bail.

4. The learned Prosecutor has opposed the application. She relied on the injury certificate of Mohammed Tajuddin. She submitted that the applicant-accused was present and took active part in assaulting the complainant.

5. Perused the FIR, medical certificate. There was head injury and fracture to ulna of left hand of the complainant and his friend Noman was also assaulted. After perusal of the complaint, it appears that the applicant-accused was holding Bamboo stick and he assaulted the complainant on his back with bamboo. On query with the learned Prosecutor, it was informed on instructions from the Investigating Officer, that the applicant-accused has no criminal antecedents. Hence, Anticipatory Bail Application is allowed 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 Monday from 7pm to 8pm till 5.5.2016;
- ii) The applicant-accused shall not tamper with the evidence or pressurise the complainant;
- iii) The applicant-accused shall not indulge into any criminal activity;
- (iv) 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.

(MRIDULA BHATKAR, J.)