

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.646 OF 2016

Waqar Ahmed Mohd Ismail Momin .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH**ANTICIPATORY BAIL APPLICATION NO.695 OF 2016**

Musharraf Ayyaz Momin and Anr .. Applicants

Versus

The State of Maharashtra .. Respondent

Mr.Vivek Pandey, Advocate for the applicant/Intervenor.

Mr.Rajendra Rathod with A.R.Bubere, Advocate for the applicants.

Mrs.Rutuja Ambekar, APP for the Respondent State.

Mr.B.S.Pawar, PSI, Bhivandi Police Station, is present.

CORAM : P.N. DESHMUKH, J.**DATED : 17th JUNE 2016**

P.C. :

1 Applicant No.1 in Anticipatory Bail Application No.646 of 2016 and applicant Nos.1 and 2 in Anticipatory Bail Application No.695 of 2016 had filed these applications for anticipatory bail in an offence registered under Sections 326, 143, 147, 148, 149 of the Indian Penal Code read with Section 37(1)135 of the Bombay Police Act being Crime No.I-75 of 2016.

2 This Court while granting interim protection to applicant Waqar Ahmad had observed that the applicant was not

possessing any weapon and allegation against him is that he had assaulted by fist blows and accordingly protected him by pre-arrest bail. While granting similar protection to applicants-Musharraf Momin and Navid Momin Court has observed that from the injury certificate of complainant and his son, which are of private hospital, it revealed that the injuries are not grievous in nature.

3 The learned Additional Public Prosecutor and the learned counsel for the intervenor opposed the applications contending that the investigation is in progress and custody of applicant is required for the purpose of recovery of chopper.

4 The learned counsel for the applicants made a statement at bar that chopper is attributed to co-accused Nadim, who is granted ad interim protection of pre-arrest bail by the trial Court and was imposed with condition to attend the Investigating Officer, which is duly complied with. The learned Additional Public Prosecutor, on instructions of Investigating Officer, has not disputed this fact and states that one plastic chair is seized from the spot.

5 Prosecution has produced case diary. On perusal of medical certificates of injured complainant Shafiqur and his son Hasan, it reveals that certificate of Momin Hasan is dated 18/04/2016 at about 11.25 a.m., while that of complainant-Shafiqur is dated 23/03/2016, who is stated to have sustained simple injuries. Though in the injury certificate of Hasan, the son of complainant, the nature of injury is as stated grievous, said certificate is dated 18/04/2016 i.e. after 26 days after the incident.

6 In that view of the matter and for the facts, as aforesaid, interim protection dated 12/04/2016 and 16/04/2016, granted to the applicants, is confirmed on the same terms and conditions.

 However, the applicants are directed to mark their presence with the Investigating Officer at Bhivandi Police Station on 15th day of each month till filing of charge sheet.

(P.N. DESHMUKH, J)