

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 707 OF 2016

Riyaz Kasir Sayyed	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Rajesh S. Jadhav i/b. Mr. Ashutosh S. Kale, Advocate for the applicant.
Mrs. P.P. Shinde, APP for the State.
Mr. J.C. Bhambal, A.P.I., Mahatma Phule Police Station, Kalyan.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **20th April, 2016.**

P.C.:

This Application is moved for pre-arrest bail, as the applicant/accused is facing prosecution for the offence punishable under sections 307, 324, 504, 506 r/w. 34 of the Indian Penal Code. The offence is registered at the instance of Malik Abdul Rahim Shaikh. The incident of assault has taken place on 10th April, 2015.

2. As per the case of the complainant, on 10th April, 2015 at 5 p.m. when he went to Dargah for Namaz, the applicant/accused Riyaz Kasir Sayyed and co-accused warned him that he should not go there and abused him. So, he went to Mahatma Phule Police Station and gave complaint. The police lodged N.C. No. 306 of 2015 under sections 323, 504, 506 of the Indian Penal Code. When the complainant came out of the police station, the applicant/accused and co-accused apprehended him, put him in rickshaw and took him to Hazrat Sayyed Nizamuddin Kadir Dargah. The

applicant/accused was holding sword and he mounted assault on the complainant but he missed the blow. The other accused persons assaulted him with wooden rod and chopper. His friends came there to rescue him. They both ran to Mahatma Phule Police Station. Under yadi, the complainant was sent to hospital for medical treatment. He was treated and then he went to police station on 11th April, 2015. However, the police did not record any offence against the applicant/accused and other accused, so he filed private complaint before the Judicial Magistrate First Class. The learned Judicial Magistrate First Class under section 156(3) issued directions for investigation, pursuant to which the offence was registered at C.R. No. I-639 of 2015 with Mahatma Phule Police Station, Thane on 3rd July, 2015.

3. The learned counsel for the applicant/accused has submitted that other two accused are protected with pre-arrest bail by the learned Sessions Court, therefore, the applicant/accused be given the benefit of parity. The learned counsel further submitted that considering the injuries on the person of the complainant, the applicant/accused has not assaulted him. He submitted that there are no criminal antecedents against the applicant/accused.

4. Learned APP opposed the Bail Application, however, she confirms

that there are no criminal antecedents against the applicant/accused. She relied on the medical certificate of the applicant/accused.

5. Perused the FIR and the medical certificate. The medical certificate discloses that the complainant has sustained fracture to his right arm. There are CLWs. The role attributed to the applicant/accused is that he tried to assault the complainant with sword, however, he missed the blow. Considering the facts of the case, this is not a case to protect the applicant/accused by granting pre-arrest bail. Hence, the Anticipatory Bail Application is rejected.

(MRIDULA BHATKAR, J.)