

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**ANTICIPATORY BAIL APPLICATION NO.793 OF 2016**

|                          |                |
|--------------------------|----------------|
| Deepak Kanahiya More     | ... Applicant  |
| vs.                      |                |
| The State of Maharashtra | ... Respondent |

Mr. M.D. Pareek a/w. Mr. S.P. Parab i/b. Mr. M.G. Shukla, for  
the Applicant.

Mr. S.H. Yadav, APP for Respondent – State.

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

DATE: **3<sup>rd</sup> MAY, 2016**

**P.C.:**

. The application is moved for pre arrest bail as the applicant/accused is facing charges for the offences punishable under Sections 397 and 427 of the Indian Penal Code in C.R. No. 40 of 2016 registered with Aarey police station, Mumbai. The offence is registered at the instance of one Pankaj Sonavane on 25<sup>th</sup> March, 2016.

2. It is the case of the prosecution that the incident of assault has taken place near Kamal lake, Aarey colony, Goregaon. It is the

case that the complainant was a rickshaw driver. On 25<sup>th</sup> March, 2016 in the morning at around 9.00 a.m. one person asked him to take him from Thane to L & T at Powai. So he took that passenger. At that time, the passenger was talking throughout on the phone. When they reached near the destination, the passenger asked the complainant to take rickshaw to Kamal lake, Aarey colony. When they reached at the spot i.e. destination, at that time, two persons on Pulsor motor-cycle were present there. One person alighted from the Pulsor and came near the complainant. He was holding wooden bamboo. Thereafter, other persons arrived there. They were also armed with wooden bamboos. The all five persons assaulted the complainant on his head, legs and hands. They did not tell him the reason of assault. However, when police vehicle was seen by one of the persons, they took away the cell phone of the complainant and ran away in the rickshaw of the complainant. Thereafter, pursuant to the first information report of the complainant, the offence was registered against unknown persons on 25<sup>th</sup> March, 2016. Police after investigation, registered offence against the present applicant/accused and his associates.

3. The learned counsel for the applicant/accused submits

that the name of the applicant/accused is not mentioned in the first information report. The applicant/accused was not present and he has no reason to be at the spot of the incident. He is unnecessarily implicated in this case. There is no evidence against the applicant/accused. He has not committed any offence. He is ready to attend the police station if pre arrest bail is granted.

4. The learned prosecutor oppose the application.

5. Perused the first information report, injury certificate and the file of the investigation produced by the police. The injury certificate dated 25<sup>th</sup> March, 2016 discloses that the complainant was assaulted and the bleeding injuries were caused to him with blunt object. *Prima facie* it shows that the incident of assault has taken place on 25<sup>th</sup> March, 2016 in the morning. The statements of the witnesses have recorded by the police. It discloses that though the name of the applicant/accused was not mentioned by the complainant, the applicant/accused has played a vital role in the assault. Hence, this is not a case where pre arrest bail can be granted to the applicant. Police have also recorded the statement of witnesses

before whom the applicant/accused has given the extra judicial confession.

6. In view of above, anticipatory bail application stands rejected.

**(MRIDULA BHATKAR, J.)**