

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.863 OF 2016

Rajesh Katekar and anr .. Applicants

Versus

The State of Maharashtra .. Respondent

Mr.Vaibhav Bagade, Advocate for the applicants.

Ms.S.S.Kaushik, APP for the Respondent State.

CORAM : PN. DESHMUKH, J.

DATED : 11th JULY 2016

P.C. :

1 Both these applicants having been involved in Crime No.42/16 registered with Bangur Nagar Police Station under section 323, 354, 506 II of the IPC r/w Section 34 of the IPC and Sections 3, 25 of the Arms Act had filed this application for pre-arrest bail.

2 Heard learned counsel for both the sides.

3 Perused the FIR lodged by Pinky Singh, contending that one body guard wearing white colour T-shirt along with co-accused Pintu abused her, and Pintu also gave her slap on her cheek and held her by her T-shirt at the neck portion due to which her T-shirt got torned by the side of the neck, and she was also

given a blow due to which she felt ashamed. Further contents reveal that complainant's friend by name Imran intervened upon which said bodyguard also assaulted Imran.

4 On a specific query made to learned APP, it is contended that reference to two bodyguards in the FIR is to applicants, as per statement of co-accused. Admittedly, except for involvement of applicants, as aforesaid, there is no other evidence against the applicants independently establishing their involvement, though it is contended on behalf of prosecution that Test Identification Parade is yet to be held with reference to applicants, it is to be noted that both the applicants on being protected from pre-arrest bail by the Sessions Court are admittedly attending the Investigating Officer. However, no such Parade is held, nor satisfactory explanation is put forth for not holding Test Identification Parade.

5 Perusal of order passed by Sessions Court refusing pre-arrest bail to applicant reveals that the learned Sessions Court erroneously noted that applicants were in possession of pistol in their hand, and had threatened to kill the complainant as well as assaulted her and outraged her modesty by snatching T-shirt and has also torn it. The findings, as aforesaid, however, appears to be totally contrary to the contents of FIR. Moreover, co-accused Pintoo is granted bail by the Sessions Court.

6 In that view of the matter, interim protection granted to both the applicants by this Court vide its order dated 12th May 2016 is liable to be confirmed on same terms and conditions with

further directions to applicants to attend the Investigating Officer as and when called till the filing of charge-sheet.

7 Application is accordingly disposed off as allowed.

(PN. DESHMUKH, J)