

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

ANTICIPATORY BAIL APPLICATION NO.1357 OF 2016

Mahesh @ Mahya Sudhakar Chikne ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**
.....

Mr.M.S.Kadu, Advocate for the Applicant.
Mrs.A.S.Pai, APP for the Respondent/State.
....

CORAM : P. N. DESHMUKH J.

DATED : 10th AUGUST 2016.

P.C.

1 Heard learned counsel for both the sides.

2 Applicant, who is involved in Crime No.I-126 of 2016 registered on 24/04/2016 for the offence punishable under Sections 326, 323, 504, 506 read with Section 34 of the Indian Penal Code and Section 37(1)135 of the Maharashtra Police Act, has sought anticipatory bail.

3 It is the case of applicant that on information by one Cristpher, resident of Kalyan, present offence came to be registered. From the report, it reveals that on 13/04/2016 at about 11.00 p.m., while complainant was present at Kalyan, co-accused Nitesh, who is stated to be juvenile accused was driving his motorcycle negligently and on that issue, there occurred some quarrel between complainant and

the juvenile accused. In the background of above, ten days thereafter on 24/04/2016 at around 12.00 midnight, when complainant was present near Anandwadi Police Chowky, said juvenile accused along with applicant and two others arrived, and on arrival juvenile accused assaulted complainant by sword causing injury to his left thumb, while applicant is stated to have caused injury to Ravi near his wrist by sword, and co-accused assaulted by fist and blows. Though from the report it further revealed that in the incident complainant's mother and wife were also manhandled, admittedly, they were not sent for their medical examination.

4 On perusal of Medical Certificate of Ravi, who is alleged to have been assaulted by applicant is found to have sustained injury on his wrist.

5 In that view of the matter and on considering the grounds of rejection of Bail Application by the learned Sessions Judge, it appears that the only ground which weighed with the learned Sessions Judge was custodial interrogation of applicant for the purpose of recovery of sword, as it is noted by the learned judge that sword can be recovered only by taking recourse of Section 27 of the Indian Evidence Act and on that ground application came to be rejected. Considering the involvement of applicant, as aforesaid and the injury certificate and as the injuries are stated to have caused on the wrist of injured Ravi, application is allowed by imposing condition to attend Investigating Officer as per order below :

- (i) In the event of arrest, applicant in Crime No.126 of 2016 registered by Kolsewadi Police Station, he shall be released on bail on his executing personal bond in the sum of Rs.20,000/- with one surety in the like amount.
- (ii) While on bail, applicant shall mark his presence with Investigating Officer from 18th to 20th August 2016 between 10.00 to 12.00 noon. and thereafter as and when called by Investigating Officer till filing of charge-sheet.
- (iii) Applicant shall co-operate with the investigation and shall not tamper with the evidence.
- (iv) Applicant shall thereafter mark his presence with Investigating Officer on 1st day of each month till filing of charge-sheet.

6 Application is disposed of as allowed.

(P. N. DESHMUKH J.)