

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1450 OF 2016

Mr. Jamil Mohammad Kureshi. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Veerdhaval Kakade, advocate for Applicant.

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

Mr. M.D.Walke, H.C., Yerwada Police Station.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 20, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 509 of 2016 registered at Yerwada Police Station (Pune) for offence punishable under Section 326, 341, 324, 147, 148, 149 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 7/7/2016 Rohan Hanumant More lodged a report at the police station alleging therein that on the day, at about 4.30 p.m. he alongwith his friends in the car of one Rohit Shinde had been to Royal Enfield Service Center at Viman Nagar for purchasing a bullet. When they had reached upto Royal Enfield Service Center, New Airport Road, near Kanak Hotel Ramwadi, Pune at about 5 p.m., one car had stopped in front of their car and four persons had alighted from the car and had assaulted them with baseball stick and screw driver. One of the person who alighted from the car had expressed his grievance that the car was not being driven properly. At that juncture, there was altercation. The complainant and his friends namely Amar, Sumit, Sunil and Rahul were assaulted. They had been to the Jeevan Hospital Ramwadi. According to him, the injuries sustained by his friends had to be sutured and hence, the prosecution against the present applicant and others was initiated. The first information report is lodged against unknown persons.

4 Perused the papers of investigation. It appears that the injured had sustained contused lacerated wound and blunt trauma. The injuries sustained by Sumit was on the occipital region 1 cm. x 1.5 cm. and the said injury was sutured.

5 Taking into consideration that there was no pre-meditation and the nature of the allegations, the applicant deserves pre-arrest bail. The incident had occurred on the spur of the moment in the course of altercation. There was no motive of assault to the complainant and his friends. Hence, the applicant deserves pre-arrest bail.

6 However, it is made clear that the observations made hereinabove are prima facie in nature and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial. The learned trial Court shall decide the matter on its own merits. These observations are restricted to an application under Section 438 of the Code of Criminal Procedure, 1973.

7 Hence, following order :

ORDER

- (i) The Application is allowed.
- (ii) In the event of arrest in C.R. No. 509 of 2016, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- and one or two sureties in the like amount.
- (iii) The applicant shall report to the concerned police station on every Sunday between 10 a.m. to 12 noon and cooperate with the Investigating Officer.
- (iv) The applicant shall not tamper with the evidence.
- (v) The applicant shall furnish his residential address as well as contact number such as landline number, cell phone number etc. to the concerned Investigating Officer.

8 The Application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)