

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1481 OF 2015

Mohammed Illyas Idris Khan & ors.Applicants.

VS

Mr.Furqan Tambe & ors.Respondents.

Mr. Vishal Gupta i/by Mr.A.R.Pandey for the Applicants.
Smt. S.D. Shinde, APP. for the State.

CORAM : A.S. GADKARI, J.

DATE : 14th January, 2016

PC:

The applicants are apprehending arrest in CR No.358/2015 registered with Kurla Police Station, Mumbai under Section 326,324,323,504 read with 34 of the Indian Penal Code.

2) The complainant Shri. Fukran Tambe has lodged the first information report dated 22.9.2015. In the said report it is stated that on 21.9.2015 at about 6.00 p.m. he along with his younger sister Afarin were cleaning the terrace of their house. At that time, some of the dirt fell in the house of the applicants. At that time, the

applicant No.1 started abusing the complainant and his family members. The complainant therefore, questioned the applicant No.1 about the said abuses. At that time the applicant Nos. 2 to 4 the sons of applicant No.1 went to the terrace and started abusing in filthy language to the complainant and his family members. That, the friend of the complainant namely Zaid Shaikh had been to the terrace. The applicant No.1 instigated his sons applicant Nos. 2 to 4 and directed them to beat the complainant and his family members. That, the applicant No.3 picked up one iron rod which was lying in the terrace. The applicant No.2 Zameer went to his house and took knife and bambu stick and started assaulting the complainant. That, the younger brother of the complainant Gufran and his friend Zahid Shaikh tried to rescue the complainant. That, the applicant No.3 Amir Khan assaulted with on the head of said Zahid Shaikh with an iron rod. That, due to the said injury he started bleeding profusely. The applicant Zameer stabbed the younger brother of the complainant namely Gufran on his right hand wrist. The

applicant No.4 Zaid Khan assaulted the younger sister of the complainant with a aid of bambu stick. After hearing the shouts, the people residing in the neighborhood rescued the said fight. As Zahid Shaikh had suffered grievous hurt he was taken to City Hospital at Kurla. In the premise, the first information report is lodged by the complainant.

3) The learned counsel for the applicant submitted that as a matter of fact the family members of the applicants have also filed first information report arising out of the said incident on 22.5.2015 itself bearing CR No.359/2015 registered with Kurla Police Station. The learned counsel for the applicant further submitted that the medical certificates show that the injuries received by the victims in the present crime i.e. CR No.358/2015 are simple in nature. He further submitted that the alleged weapons namely iron rod and bambu sticks were found on the spot of incident and the police have already seized the same by effecting seizure panchanma dated 22.9.2015. He therefore, submitted that the custodial

interrogation of the applicants is therefore, not required and the applicants may be granted pre-arrest bail.

4) The learned APP on the other hand produced for my perusal papers of investigation including medical certificates issued by the Medical Officer, K.B. Bhabha Hospital, Kurla (W). As far as the Medical Certificate of Gufran is concerned, it is specifically mentioned that the said patient had received injury "CLW 4x5 cm., by sharp edged weapon and the nature of the injury is simple". The Medical certificate of Gufran Tambe dated 21.9.2015 thus corroborates the version of the complainant that the applicant No.2 Zameer Khan has inflicted a blow with the help of knife. The weapon used by him i.e. knife is yet to be recovered. The learned APP. submitted that the clothes which were on the person of the applicants are also to be seized, as there is every possibility that those clothes might have been blood stains of injured.

5) Taking into consideration the aforesaid fact, I am of the opinion that the applicant No.1 namely Mohd. Illyas, Applicant No.3 Amir Khan and Applicant No.3 and

Applicant No.4 have made out a case for grant of pre-arrest bail. As far as applicant No.2 Zameer Ilyas Khan is concerned, I am of the opinion that the said applicant cannot be released on pre arrest bail in view of the facts mentioned earlier.

Hence, I pass the following order.

ORDER

- a) The application of Applicant No.2 Zameer Khan for anticipatory bail is rejected.
- b) The interim relief granted by an order dated 7.10.2015 to Applicant Nos.1,3 and 4 is hereby confirmed.
- c) The Applicant Nos, 1,3 and 4 named above shall attend the Investigating Officer as and when called for between 10.00 a.m. to 4.00p.m. till the filing of charge sheet.
- d) The applicants shall not tamper with the evidence and/or influence the prosecution witnesses.
- e) The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)