

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Amk

ANTICIPATORY BAIL APPLICATION NO. 1614 OF 2015

Manoj Laxman Salve

...Applicant

Versus

State of Maharashtra

...Respondent

.....

Mrs. Pranali Kakade i/b Subhash Hulyalkar for the Applicant.

Mrs. Veera Shinde, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 25th JANUARY, 2016.

P. C. :

1. This is an application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in Crime No. 292 of 2015 registered with Bhosari Police Station, Pune under Section 143, 144, 147, 148, 427, 452, 504 read with Section 149 of the Indian Penal Code and Section 7 of the Criminal Amendment Act and Section 37(1) read with Section 135 of the Bombay Police Act and Section 4 read with Section 25 of the Arms Act.

2. The case of the prosecution in brief is that, the applicant and the other accused had formed an unlawful assembly armed with deadly weapons and that the applicant along with other members

had criminally trespassed into the shop of one Kanaram Pakaji Bhati and had committed mischief by damaging all the electronic goods and other items from the shop.

3. Mrs. Kakade, the learned Counsel for the applicant has submitted that the name of the applicant does not figure in the FIR. She has further stated that the applicant was not shown as an accused in the remand application filed on 12.10.2015. She has stated that the applicant was not present at the place of the incident and that at the relevant time he had attended the birthday at Chimoli. She has further stated that the applicant is not involved in the said crime and he has falsely implicated.

4. The learned APP states that the complainant has identified the accused. The material on record prima facie reveals that the accused is involved in the said crime. The applicant has criminal antecedents and hence he is not entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned Counsel for the applicant and the learned APP for the State.

6. The FIR dated 09.10.2015 lodged by Kanaram Pakaji Bhati prima facie reveals that on 09.10.2015 at about 9 p.m. to 9.15 p.m. about 10-12 persons of age group between 25-30 years armed with sickles, hockey stick, stones entered into the shop and damaged electronic goods TV, Refrigerators, LCDs, Washing Machines, Sewing Machines in the shop. The said persons also damaged the window panes and glass frames and furniture of the said shop. Thereafter the applicant damaged the petrol tank of a Splendour motorcycle by inflicting blows of sickle. The complainant has further stated that the said 10-12 persons had also threatened the public who had gathered at the place of incident.

7. Based on the CC TV footage some of the accused persons were identified. It is true that the applicant herein was not named in the FIR and was not identified in the CC TV footage. However in the statements recorded subsequently, the witnesses have named the applicant herein. The statements of the witnesses prima facie indicates that the applicant was involved in commission of crime. The contention of the learned Counsel that the applicant was present at the birthday party at Chimoli is a matter of defence which cannot

be looked at this stage. The applicant has criminal antecedents and this fact coupled with the nature of allegations would not justify grant of bail.

8. In view of the above facts and circumstances the application is dismissed.

(ANUJA PRABHUDESSAI, J.)