

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2089 OF 2016

Salman Gouse Shaikh

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Ashok B. Tajane Advocate for the Applicant.

Mr. Prashant Jadhav APP for the State.

Mr. D. N. Salunkhe, API Khadki Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 13th DECEMBER, 2016.

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 262 of 2016 registered at Khadki police station on 07/10/2016 for offence punishable under sections 307, 324, 323, 504, 506 of the Indian Penal Code.

2) It is the case of the prosecution that on 06/10/2016, Ali Hasan Moharam Shah lodged a report at the police station alleging therein that on 06/10/2016 at about 3.00 p.m., when he was in the tailoring shop, Haider Hanif Shah had assaulted the complainant. His sons Ayan and Saif had

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intervened. At that time, present applicant had caught hold of his son and Haider had assaulted his son with a knife. Ayan had rescued himself, however, the assault had landed upon his cheeks. On the basis of the said report, crime no. 262 of 2016 is registered.

3) The learned counsel for the applicant submits that on 18/10/2016, son of the complainant namely Ayan Ali Haider Shah filed an affidavit before the Judicial Magistrate First Class, Khadki contending therein that he had implicated the present applicant by mistake. It is specifically stated that in fact, present applicant had intervened only to rescue the complainant. Affidavit was sworn before Assistant Superintendent, Court of Judicial Magistrate First Class, Pune. It is clear that the applicant had won over the witness or that the witness was threatened by the applicant.

4) The learned APP submits that the applicant has criminal antecedents. He was externed for a period of 6 months and in all probabilities that is one of the reason why the witness has deposed in favour of the applicant at the outset. The record shows that there are several similar offences filed against the present applicant. Filing of the affidavit by the injured witness would amount to tampering of evidence.

5) It is in these circumstances that the applicant does not deserve discretionary relief under section 438 of the Code of Criminal Procedure, 1973. Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.