

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

ANTICIPATORY BAIL APPLICATION NO.2150 OF 2016

Mr. Momin Jalaluddin Mainuddin Applicant

Vs.

The State of Maharashtra Respondent

Mr. A.D. Joshi, Advocate for the applicant.

Ms. R.M. Gadhvi, APP for the State.

Mr. Andhale, API, Bhiwandi Police Station present.

Coram : N.W. SAMBRE, J.

Date : 16th December, 2016

P.C.

1 The applicant is seeking pre-arrest bail in C.R. No. I-175 of 2016, registered with Bhiwandi City Police Station for the offences punishable under Sections 326, 325, 323, 352, 506 read with 34, 109 and 114 of Indian Penal Code.

2 The learned counsel for the applicant would urge that apart from the delay of about 4 days in lodging the F.I.R., the story as is narrated in the statement, which is considered as an F.I.R. and the supplementary statement does not repose confidence in the prosecution story. According to him, there is no consistency in the statement of witnesses so as to infer that the applicant have actively participated in the crime as has been claimed in the prosecution story. He then urged that the

investigation in the matter is complete. The charge-sheet is already filed. As such custodial interrogation of the applicant is unwarranted.

3 The learned APP opposed the application.

4 What could be gathered from the charge-sheet as is placed on record is there are statements of witnesses, who attributes specific role to the present applicant of active participation in the crime in question and the fact that there is a delay of about 4 days in lodging F.I.R. as the complainant was hospitalised because of the injuries suffered by him. The applicant intentionally waited till filing of the charge-sheet as is apparent from the fact that the offence came to be registered on July 2, 2016 and till date the applicant is avoiding his custodial interrogation. No doubt, the applicant is entitled for exhausting statutory remedies available to him. However, just because the charge-sheet is filed, the same cannot be a ground which could be read to the interest of the applicant for granting pre-arrest bail.

5 In view of prima facie involvement as could be inferred from the material available on record, no case is made out for grant of pre-arrest bail. The application is therefore rejected.

(N.W. SAMBRE, J.)