

Dond

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1904 OF 2015

Shri Harresh Vinayak Juvatkar

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Mr. Sanjeev P. Kadam for Applicant.

Ms. P.P. Shinde for State.

CORAM: A.S. GADKARI, J.

DATE : 21st January 2016.

P.C.

1 The applicant apprehends arrest in CR No.I-258 of 2015 registered with Shree Nagar Police Station, Thane under Sections 307, 324, 323, 504, 427 read with Section 34 of the Indian Penal Code.

2 The learned Counsel for the applicant criticized that after the lodgment of the first information report, the Police have added Section 307 to the present crime to enhance the gravity of offence. The first information report is lodged by Jayesh Motiram Srimali wherein he has stated that, on 23.9.2015 at about 5.30 a.m. when he was passing through the ground, he had spit in dustbin which is opposite to the Ganpati Pandol. At that time,

the applicant along with his brother questioned him about the said act and pursuant to the earlier enmity they started abusing him. That the applicant thereafter initially assaulted the complainant with fist and kick blows and immediately thereafter gave blows with sharp edged weapon on the chick and other parts of the body of the complainant. It is further stated that the other accused persons assaulted the complainant with fist and kick blows. In the premise the first information report dated 23.9.2015 was filed initially under Sections 324, 323, 504, 427 read with 34 of the IPC.

3 The learned Counsel for the applicant criticized that after the lodgment of the first information report, the Police have added Section 307 to the present crime to enhance the gravity of offence. Mr. Kadam, the learned Counsel for the applicant submitted that as a matter of fact, all the other accused persons have been released on regular bail. That as the complainant did spit near the Ganpati pandol and therefore the altercation took place and due to previous enmity the complainant has falsely implicated the applicant. He submitted that all the injuries suffered by the complainant are simple in nature. He therefore submitted that the applicant may be released on pre-arrest bail.

4 A bare perusal of the F.I.R., discloses that the complainant has categorically stated that applicant has assaulted him with the aid of sharp

edged weapon on his chick and other parts of body. The medical certificate issued by the Civil Hospital, Thane dated 9.11.2015 corroborates the said version. It appears from the said medical certificate that the complainant has received one incised wound, one CLW on right shoulder and one CLW on left chick. The medical certificate mentions that there is fracture of ribs caused to the complainant. It is to be noted here that though the other accused persons were released on regular bail, the recovery of the sharp edged weapon is yet to be effected by the police. That unless and until the applicant is interrogated thoroughly by the police, the recovery of the said weapon is not possible.

5 Thus after taking into consideration the serious allegations, and the gravity of the offence, I am not inclined to grant per-arrest bail to the applicant. The application is accordingly rejected.

(A.S. GADKARI,J.)