

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1940 OF 2015

Anwar Abdul Rehman Khan	..Applicant
V/s.	
The State of Maharashtra	.. Respondent

Mr.Vijay Killedar for the Applicant.
Mr.D.P.Adsule, APP for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.,

DATE : 17th MARCH, 2016.

P.C.

1. Heard learned counsel for the Applicant and the learned APP for the Respondent – State.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 300 of 2015 registered with the Khadki Police Station, Pune, for the alleged offences punishable under Sections 307, 452, 143, 147, 148, 149, 354, 323, 504, 506, 427 of the Indian Penal Code.

3. Learned Counsel for the Applicant submits that the complainant – Umesh Pulgam, a police constable has lodged a

false complaint, as against the applicant and others alleging the aforesaid offences. He submitted that infact, it was the complainant in the aforesaid C.R., who along with others assaulted the injured-Mohammad Ajmal Khan on 9th November, 2015, and that it was the applicant and others who tried to save the injured, by intervening and stopping the complainant and others, from assaulting the injured. He submitted that it was the applicant and others who admitted the injured to the Babasaheb Ambedkar Khadki Cantonment Hospital, as he had received injuries, at the hands of the complainant and others. He submitted that the injured was discharged from the hospital on 17th November, 2015, pursuant to which, he went to lodge a complaint as against the complainant in the aforesaid CR. He further submitted that as the injured's complaint was not registered, the injured made a representation to the Commissioner of Police, Pune setting out the manner in which, he was assaulted by the police and how the applicant and others intervened and saved him from being assaulted any further.

4. The complainant's case is to the contrary. According to the complainant-Police Constable Umesh Pulgam, he was attached to SPU, Pune City, Pune at the relevant time. He has stated that on 09-11-2015 at 3.00 p.m., as there was quarrel on the road, behind the Khadki Police line, he went there and saw that the applicant and his associates were assaulting one Mohammad Ajmal Khan. He has stated, that when he asked the accused why they were assaulting, Khan, they verbally abused him and questioned him as to who was he to interfere. When the complainant disclosed that he was in the police, the accused asked him not to interfere and started assaulting him, pursuant to which he started running to his house. He has alleged that the accused chased him and that thereafter, Rizwan, Arbaj, Amit, Anwar(Applicant), Muktar, Rauf and 15 to 20 others, armed with wooden logs, iron rods forcibly entered the complainant's house, assaulted him, outraged the modesty of complainant's wife, assaulted the complainant's wife, daughter and one Ibdul Khan. He has alleged that in the incident, the applicant pulled his wife's mangalsutra, as a result of which it broke. Pursuant to the

alleged incident, the aforesaid CR was lodged by the complainant, as against Arbaz Khan, Rizwan Khan, Abdul Khan, Anwar Khan(Applicant), Amit Kachi, Muktar Qureshi, Rauf Shaikh and other 15 to 20 associates.

5. Learned counsel for the applicant also submitted that a Writ Petition has been filed by injured-Khan, in this Court, in which, he has sought a direction for registration of his complaint and others and for transfer of investigation to an independent agency. He submitted that in the said writ petition, affidavits of eye witnesses, affirmed before the Ld. Magistrate, have been filed, which show that Mohammad Ajmal Khan was assaulted by the police and not by the applicant and others.

6. Learned APP states that even today the Investigating officer is not present, as he is on leave and that Mr.Rathod, API is present. He submitted that as Mohammad Ajmal Khan was being assaulted by the applicant and others, it was the complainant and others who went to rescue him. He

relied on the injury certificates of the complainant-Umesh Pulgam and others. He submits that the injury certificates show that the complainant and others had received simple injuries.

7. Perused the papers. Perusal of the statement of Mohammad Ajmal Khan, dated 10-11-2015 recorded in the aforesaid CR, reveals that he has not named the applicant/or others. He has stated that on 09-11-2015 at about 3.00 p.m., when he was in the shop, three unknown persons came there and parked their two wheeler, opposite the shop. He has stated that since, the said vehicle was obstructing the entry and exit of the shop, he requested the said persons, to park the vehicle somewhere else. He has stated that the said persons started assaulting him and that thereafter he was rescued. It appears, that subsequently, after Mohammad Ajmal Khan was discharged on 17th November 2015, he went to lodge a complaint in the police station, as against the complainant and others, however they refused to register his complaint. Hence he made a representation to the Commissioner of Police, Pune.

The said letter is at Page 23 of the application. In the said letter, Mohammad Ajmal Khan has stated that he was not assaulted by the applicant and co-accused, but, was assaulted by the complainant and others. It also appears that Mohammad Ajmal Khan has filed Writ Petition in this Court, wherein, he has prayed that the investigation be transferred to some independent agency and for a direction to register his complaint.

8. Prima-facie, there are 2 versions to the incident. Also perused the injury certificates. It appears, that all the injuries are simple in nature. Considering the peculiar facts of this case, the applicant is granted anticipatory bail on the following terms and conditions :-

ORDER

(i) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 10,000/- with one or two sureties in the like amount.

(ii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any other

person concerned with the case.

9. Application is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

11. Parties to act on an authenticated copy of this order.

(REVATI MOHITE DERE, J.,)