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FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1969 of 2016

Md Rafique Munna Khan @ Babloo Vs. The State of Maharashtra.

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr Mooman H. Ebrahim for the Applicant.

Smt. P.P. Shinde, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 25th January, 2016

P.C.

1) The applicant is apprehending arrest in CR No. 497/2015 registered with Parksite Police station, Mumbai dated 9.12.2015 for the offence punishable under sections 326, 323, 354, 504 read with section 34 of the IPC.

2) The complainant Smt. Rahima Nizam Osmani has lodged the FIR on 10.12.2015. An incident of assault took place on 9.12.2015 at about 10:00 a.m. on her son namely Jaffar by a person, by name Bablu Khan (applicant). Therefore, her husband namely Nizam Osmani questioned the applicant at about 2:30 p.m. for the same. That as the applicant was questioned about the earlier incident, he

got enraged and started beating her husband with fists. The complainant heard the commotion and she came out of the house. She noticed that the applicant and his brother namely Shafiq Munna Khan @ Lala and Hanif Munna Khan were assaulting her husband. At that time, the applicant and her daughter namely Amina intervened in the said fight. That the applicant picked up one iron rod which was lying at the spot and gave a blow of it on the right hand of the complainant. The complainant sustained injury. She, thereafter, took medical treatment and subsequently reported the FIR on 10.12.2015.

3) The learned counsel for the applicant submitted that, as a matter of fact, on 9.12.2015 itself one Mrs Parveen Khan, the sister of applicant had lodged a FIR against the husband of the complainant in the present crime under sections 354 and 504 of the IPC. He further submitted that as the sister of the applicant had lodged the FIR against the husband on compliment, his wife has falsely implicated the applicant in the present crime.

4) I have perused the papers of investigation and it appears that during the assault complainant has received a fracture of lower 1/3rd of ulna of a right forearm and a medical certificate issued by the concerned Medical Officer discloses that the injury is grievous one. However, it is to be noted here that the weapon i.e. the iron rod

which is alleged to have been used by the applicant while assaulting the complainant has been recovered at the instance of the co-accused namely Hanifkhan. It is further the prosecution case that the other accused persons used bamboo stick during the commission of the said offence. It further appears that other three accused persons namely Mohammed Rafiq Munna Khan @ Bablu, Mohammed Shafique Munna Khan @ Lala and Mohammed Hanif Munna Khan have been released on regular bail. That the recovery of weapons have already been effected at the instance of the other accused persons.

5) That after taking into consideration the fact that the sister of the applicant had lodged the FIR under section 354 of the IPC earlier against the applicant, prima facie it appears to me that the complainant had reason to implicate the present applicant in the present crime. In view of the same, I am of the opinion, that the applicant has made out a case for grant of pre-arrest bail.

6) Hence, the following order :-

ORDER.

A) In the event of arrest of the applicant in CR No. 497/2015 registered with Parksite Police Station, Mumbai, the applicant shall be released on bail on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in

the like amount;

B) The applicant shall attend the Investigating Officer between 10:00 a.m. to 12:00 noon, as and when called for;

C) The applicant shall not tamper the evidence and/or influence the prosecution witnesses;

D) The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)