

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1054 OF 2017

Krushna s/o. Pralhad Kakade **....Applicant.**

Versus

The State of Maharashtra **....Respondent.**

Mr. S.S. Manale, Advocate for applicant.

Mr. S.M. Ganachari, APP for respondent/State.

CORAM : T.V. NALAWADE, J.

DATED : March 27, 2017.

ORDER :

1. The application is filed for relief of anticipatory bail in C.R. No. 27/2017 registered in Shivaji Nagar Police Station, District Latur for the offences punishable under section 307, 323 r/w. 34 of Indian Penal Code. Both the sides are heard. The papers of investigation were made available for perusal.

2. The incident in question took place on 21.1.2017 after 7.45 p.m. When the complainant and his friend Durgesh were proceeding on their motorcycle to the hospital to see the relatives, they saw that there was crowd on the road. One Ajinkya Mule, the main accused, was standing with his friends and when Durgesh requested Ajinkya to give side as they were

proceeding to the hospital, Ajinkya Mule picked up quarrel. During quarrel, friends of Ajinkya namely Krishna Kakade, present applicant, and Ketan Patane virtually pulled down Durgesh from his vehicle and started assaulting him. Present complainant tried to intervene in the incident, but the threat of life was given and Ajinkya Mule said that he would not leave Durgesh and he would finish Durgesh. He then took out the knife and gave blow of knife on the stomach of Durgesh. During incident, as per the allegations, the present applicant, friend of Ajinkya picked up tile to hit over the head of Durgesh, but the tile hit on the his leg. When the crowd gathered , they ran away.

3. The injury certificate shows that there was penetrating wound on the abdomen on the right side caused by sharp object and this was dangerous to life. Operation was performed. There was wound towards left thigh described as C.L.W., having size of 2 c.m. x 1 c.m. x 1.5 c.m. It was caused by tile and there was C.L.W. over occipital region.

4. The learned counsel for applicant submitted that the applicant is student of 12th standard and so, discretion needs to be used in his favour. It was submitted that dangerous weapon was not used by him. These submissions are not at all

acceptable. Though there is no specific report of police of bad antecedents against applicant, during argument it was submitted that against main accused, Ajinkya there are criminal cases registered even of the aforesaid nature and the incident shows that he is a Gunda by nature and such Gunda persons have their own gang. It can be said that the applicant is the Member of his gang. Though he is young boy studying in 12th standard, he must learn a lesson that he cannot become member of such gang of Gunda. Thorough investigation needs to be made in such case which is filed under section 307 of I.P.C. In view of the aforesaid allegations, this Court holds that discretion cannot be used in favour of the applicant. In the result, the application stands rejected. Interim relief, if any, is vacated. The learned counsel for applicant requested for continuation of interim relief. It is refused.

[T.V. NALAWADE, J.]

ssc/