

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

912 CRIMINAL APPLICATION NO. 1676 OF 2017

KALAM BAIG JAMAL BAIG
VERSUS
THE STATE OF MAHARASHTRA

Shri. Kedar P. Chaware, Advocate, for applicant.

Shri. A.A. Jagatkar, Additional Public Prosecutor, for
respondent.

Coram: T.V. NALAWADE, J.

Date: 13 April 2017

ORDER:

1) The application is filed for the relief of anticipatory bail. Both the sides are heard. Original papers of investigation were made available to this Court by the learned Additional Public Prosecutor.

2) The crime is registered on the basis of report given by one Arif Shamsoddin Shaikh. The incident in question took place on 17-7-2016 at 9.00 p.m. When the complainant was returning home from the place of his service he noticed that quarrel was going on between

Afsar Shaikh on one side and Sadiq Kasam, Rahil Baig on the other. He intervened that incident and at that time the members of the family of Fakira Baig came there. Allegations are made that during incident of quarrel present applicant gave blow of hockey stick on the back of the complainant. Allegations are made that the other accused had assaulted the complainant with weapons like sword, tommy. Crime is registered for offences punishable under section 307, 142, 149 etc. of the Indian Penal Code and section 135 of the Maharashtra Police Act.

3) There are statements of witnesses to show that some incident did take place. The injury certificate of the complainant shows that he has received serious head injury. The charge sheet is filed in the matter against all the accused and the present applicant is shown to be absconding in the charge sheet. The learned counsel for the applicant submitted that the applicant is of 66 years age and he is taking treatment in Apex Hospital Aurangabad. It appears that the medical record of the applicant is starting from 2013. But it cannot be said that he was not in a position to participate in the incident. The

incident is of July 2016 and till today the police could not arrest the applicant. The crime is registered for offence punishable under section 307, IPC. Blow of axe was given on the head of the complainant and injury was found on his person. Section 149 IPC is used. In view of these circumstances this Court holds that discretion cannot be used in favour of the applicant. The application stands rejected.

Sd/-
(T.V. NALAWADE, J.)

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