

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

CRIMINAL APPLICATION NO. 1723 OF 2017

Kiran s/o. Rambhau Paikrao	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

Mr.M.P. Tripathi, Advocate for the applicant.
Mr.S.D. Ghayal, A.P.P. for respondent/State.

CORAM : T.V. NALAWADE, J.
DATED : 25.04.2017

P.C. :-

1. This application is filed for anticipatory bail. Both the sides are heard. The papers of investigation were made available for perusal of this Court.

2. The crime is registered on the basis of report given by one Sunita Pawar. The allegations are made in respect of incident dated 29.10.2016. On that day, the incident took place at about 10.30 p.m. The allegations are made that persons like Shaikh Imran and Shaikh Rizwan with his 10-15 associates entered the house of the complainant forcibly. They had grievance that sound system was being played in loud voice by the family of the complainant. They switched off light and then they assaulted Kiran - son of the complainant by using chopper and other were assaulted by fist and kick blows. They removed petrol from the motor-cycle and by the said

petrol the motor cycle was burnt in the incident in addition to household articles. In respect of incident dated 29.10.2016, report was given on 30.10.2016 and crime came to be registered for the offences punishable under sections 436, 326, 149, 327 etc. of the Indian Penal Code.

3. In the supplementary statement name of present applicant was mentioned by the informant. The statement is of a girl, aged about 14 years and the supplementary statement is made on 08.11.2016, showing that during the incident, present applicant outraged modesty of the said girl by lifting her and by attempting her to take her out along with other accused. Due to these allegations, crime is now registered for the offences under the provisions of the Prevention of Children from Sexual Offences Act.

4. The learned Counsel for the applicant submitted that supplementary statements were recorded late and this circumstance shows that false allegations are made against present applicant. He submitted that name of the present applicant is not mentioned in the F.I.R. He took support of observations made by this Court in Criminal Application No.311 of 2017, by which relief of anticipatory bail is granted by this Court to Shaikh

Khalid, Naeem Khan and Shakil Amir etc. It appears that while granting the relief, observations are made by other Hon'ble Judge of this Court that there is possibility of false implication of those persons and the story was not believable. This Court is avoiding to make more observations with regard to aforesaid contention. In short, it needs to be observed that this Court is not expected to make observation that the witness has probably given false version. At this stage, the allegations need to be considered as they are. There is copy of spot panchanama showing that virtually all household articles were burnt. There are MLC showing that persons were injured in the incident. It cannot be said that false allegations are made in the F.I.R. or supplementary statement. The incident took place in the night time when the applicant forcibly entered into the house and participated in the incident. In such cases discretion cannot be used in favour of the person involved in such incident. This Court holds that this is not a fit case to grant relief even on the ground of parity. The application stands rejected.

[T.V. NALAWADE, J.]