

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1899 OF 2017

Ramesh Mahadev Singh ... **Applicant**

V/s.

Sr.Police Inspector & Anr. ... **Respondents**

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Adv.D.V. Kedar i/b Sudhir, P. Dhayatadak, Advocate for the Applicant.

Ms.P.P.Shinde, APP for the Respondent/State.

API Ulhasnagar, Police Station.

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CORAM : A.M.BADAR J.

DATED : 1st NOVEMBER 2017.

P.C. :

1. The applicant/accused in crime No.I-169 of 2017 for the offence punishable under Sections 307, 326, 325, 504, 143, 147 of the Indian Penal Code registered with police Station Ulhasnagar at the instance of injured Kaushal Jha is seeking the pre- arrest bail.

2. Heard the learned advocate appearing for the applicant/accused. He argued that the First Information Report lodged by injured Kaushal Jha shows that assailants were known

to him and he has not named the present applicant as one of the assailant. It is further argued that prima facie case for the offence punishable under Section 307 is not made out. Though, it is averred that blow was on the head by the chopper by co-accused Shrikant, the injury certificate shows that injured Kaushal had suffered fracture of mandible because of blunt weapon. No other injury is seen on head of the injured.

3. The learned APP opposed the application by contending that in the supplementary statement of the first informant, the name of the present applicant is figuring as one of the assailant. Statement of Shubham also shows that the applicant had assaulted the injured alongwith co-accused.

4. I have carefully considered the rival submissions and also perused the case diary. The incident in question took place on 15.07.2017. The First Information Report came to be lodged on 16.7.2017 when injured Kaushal was taking treatment at the Sion Hospital, Mumbai. Injured/informant Kaushal has reported that

when he was proceeding towards his house, he met accused persons who were acquainted with him. Injured/informant Kaushal has named all those accused persons by ascribing specific role to them. He has named these assailants. He has not stated that apart from those 6 assailants some others had also assaulted him.

5. On 19.7.2017, statement of injured Kaushal came to be recorded under Section 161 of the Code of Criminal Procedure. In that statement apart from 6 assailants named in the First Information Report, injured Kaushal has further stated that the present applicant had also assaulted him. Injured Kaushal in his supplementary statement has not stated any reason as to why he had not disclosed name of the present applicant at the time of lodging the First Information Report.

6. Shubham was accompanied the injured at the time of incident which took place on 15.7.2017. The statement of Shubham is recorded on 24.7.2017. On this backdrop, one will

have to consider the effect of naming the applicant in his police statement by Shubham.

7. In a case of multiple accused, there is every possibility of adding embellishment to the version by roping in as many as persons as possible. However, the first version is always material. In the case in hand the first version about the incident is not disclosing the name of the present applicant as one of the assailant. The first version is coming on record from none else then the injured. In this view of the matter, I am of the considered opinion that custodial interrogation of the present is not warranted. Therefore, the following order:-

ORDER

- i. The application is allowed.
- ii. In the event of his arrest in crime No.I-169 of 2017 for the offence punishable under Sections 307, 326, 325, 504, 143, 147 of the Indian Penal Code registered with police Station Ulhasnagar the applicant/accused be released on bail on executing P.R. Bond of Rs.15,000/- and on furnishing surety in the like amount

iii. As a condition of this order, the applicant / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.

iv. The applicant should attend the concern police station on every 1st and 3rd Monday in between 4.00 p.m. to 6.00 p.m. till filing of the charge sheet and he should cooperate the investigators in the investigation in the crime.

(A.M.BADAR J.)