

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 57 OF 2017

1. Shaikh Ejaz Riyaz Shaikh		
2. Imran @ Babloo Gafoor Shaikh		
3. Javed Akil Shaikh	...	Applicants
Vs.		
The State of Maharashtra	...	Respondent

Mr. Sandeep S. Dere a/w. Mr. Anand D. Gugale, Advocate for the applicants.

Mr. Prashant Jadhav, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **11th January, 2017.**

P.C.:

This application is filed by the applicants/accused under section 438 of the Criminal Procedure Code.

2. The Investigating Officer is present alongwith the file and hence, this matter is being finally disposed of.

3. The applicants/accused are prosecuted for the offences punishable under section 307, 397, 354, 324, 323, 504 and 506 of the Indian Penal Code in C.R. No.I-159 of 2016 at Yeola Police Station, District Nasik. It is the case of the complainant Hussain Babulal Shaikh that he and the accused persons belonged to different political parties and had enmity due to political issues. On 30.11.2016, the applicants/accused alongwith the other accused were discussing near one school. At around 11.30am, when the complainant reached there, the applicant-accused Ezaj Shaikh started

quarreling with him and gave him blow on his left eye. Thereafter, the co-accused and the applicants/accused also assaulted him. He was injured. The applicant-accused Imran Gafoor Shaikh and co-accused took away a gold chain and gold finger ring and so also cash and a wrist watch from his person. When wife of the complainant tried to intervene, the accused Ejaz Riyaz Shaikh manhandled her and therefore, the complainant approached the police and offence was registered against the applicants/accused.

4. The learned counsel for the applicant/accused submitted that there was a scuffle between the complainant and the applicants-accused on 30.11.2016. A cross complaint was registered against the present complainant by the applicants-accused on 1.12.2016 at N.C. No.580 of 2016 with the Yeola Police Station under sections 323, 504, 506 and 427 of the Indian Penal Code. He further submitted that the applicants/accused were not armed with weapons. The grievous injury caused to the complainant was not due to the assault by the applicants/accused. The learned counsel for the applicants-accused submitted that applicant-accused Ejaz Riyaz Shaikh is contesting the election and there is political rivalry, therefore, applicants-accused are falsely implicated in the case.

5. Learned Prosecutor has opposed the application and has submitted that the names of the accused are appearing in the FIR. Learned APP and

learned counsel for the complainant both have submitted that all the three applicants-accused are the assailants and their names are appearing in the FIR. They were present when the assault took place and the complainant had suffered grievous injury, hence, no pre-arrest bail be granted to the applicants/accused.

6. Perused the injury certificate. It appears that the complainant had sustained fracture. After going through the FIR, it appears that the applicants/accused have assaulted the complainant with kicks and they were not armed with weapons. The complainant was robbed of his ornaments and cash by applicant/accused Imran. The names of the applicants-accused are appearing in the FIR and specific role is attributed to all of them. On query, it is informed by the learned Prosecutor, upon instructions from the Investigating Officer, that the applicants/accused do not have criminal antecedents. However, the applicant/accused Ejaz is an aggressor. Perused the statement of Razia Shaikh, wife of the complainant disclosing that Ejaz and Imran both have manhandled her. Considering the roles attributed to the applicants-accused, I am not inclined to grant pre-arrest bail to Shaikh Ejaz Riyaz Shaikh and Imran @ Babloo Gafoor Shaikh. Hence, prayer for anticipatory bail to Shaikh Ejaz Riyaz Shaikh and Imran @ Babloo Gafoor Shaikh is rejected. However, after going through the injury certificate of the complainant and the act described against applicant-accused Javed Ali Shaikh, I am inclined to

consider his prayer for pre-arrest bail. Hence, the Anticipatory Bail Application is granted to only applicant-accused Javed Akil Shaikh on the following terms and conditions:

ORDER

- (i) In the event of arrest , the applicant No. 3 Javed Akil Shaikh be released on bail on furnishing P.R. Bond in a sum of Rs.20,000/- with one or two sureties in the like amount;
- (ii) Applicant No. 3 shall not indulge into any criminal activity.
- (iii) Applicant no. 3 shall not harass or threaten the complainant.
- (iv) Applicant No. 3 shall attend the concerned police station on every Monday and Thursday between 5 p.m. to 7 p.m. till the filing of the charge sheet.

7. The Application for Anticipatory bail stands disposed of on above terms.

(MRIDULA BHATKAR, J.)