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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 156 OF 2017

Imran Munaf Divte	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

Mr. Solkar Mohammed Amin for the Applicant.
Mr. Arfan Saif, APP for the Respondent-State.
Mr. Sagar S. Avhad, PSI, Shivaji Nagar Police Station present.

CORAM : A.S. GADKARI, J.

DATE : 4th APRIL, 2017.

P. C. :

1. This is an application under Section 439 of the Criminal Procedure Code for pre-arrest bail in C. R. No. 315 of 2016 registered with Shivaji Nagar Police Station, Mumbai under Sections 397, 395, 506 (II), 427 read with 34 of the Indian Penal Code and Sections 4, 25 of the Indian Arms Act.

2. The First Information Report is lodged by Shri Sadique Sayyed. It is stated in the FIR, that the informant was constructing a hut near the scene of offence when the principal accused Irfan Divte along with other accused persons came at the site and demanded ransom and started assaulting the first informant and other persons due to which the first informant and other witnesses have received injuries. In the premise, the FIR is lodged. After completion of investigation, the police have submitted charge-sheet.

3. Learned counsel for the applicant submitted that there is counter case bearing C. R. No. 316 of 2016 registered by a person from the group of the applicant against the complainant in C. R. No. 315 of 2016. That during the said scuffle, injuries to the first informant and other persons have been caused. He further submitted that the first informant Sadique Sayyed and the injured witness, namely, Mukhtar Shaikh have neither named the applicant at the first instance nor any role is attributed to him. He submitted that the police have already arrested 8 accused persons and the weapons used in the said crime are already recovered by the police. He submitted that the other witnesses have named the applicant after the gap of 2-3 days for the first time and, therefore, it can be presumed that as an afterthought the said witnesses have implicated the applicant. He, therefore, prayed that the applicant may be granted pre-arrest bail.

4. I have perused the charge-sheet annexed to the application. It is to be noted here that the injured witness namely, Mukhtar Shaikh and eye witness, namely, Smt. Noorjahan Shaikh in their statements have stated that the applicant was present at the spot along with his brother Irfan Divte. Injured witness, namely, Shahabaz Riyaz Khan has categorically stated that the applicant was holding an iron rod and assaulted the complainant on his right leg. The injury certificate issued by the Municipal Hospital dated 07.08.2016 in favour of Shahabaz Khan corroborates the said version. The weapon used by applicant in the

present crime i.e. iron rod is yet to be recovered by the police.

5. After taking into consideration the serious allegations against the applicant, the gravity of the offence and the need for recovery of the weapon used by the accused in the crime, this Court is of the view that the applicant does not deserve to be released on pre-arrest bail. The application is, accordingly, rejected.

[A. S. GADKARI, J.]