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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 321 OF 2017

Tarik Yunus Shaikh & Anr.	..Applicants
Vs.	
State of Maharashtra	..Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 322 OF 2017

Abdul Qadir Abdul Latif Noorani	..Applicant
Vs.	
State of Maharashtra	..Respondent

Mr. M.S. Mohite i/b Mr. Vinayak Patil for Applicant in ABA.321/2016.
Mr. A.P. Mundargi, Senior Counsel i/b Mr. Ade Ranjeet Babusing for
applicant in ABA 322/2017.
Mr. Arfan Sait, APP for State in both applications.

CORAM: A.S. GADKARI, J.

DATE : 6th April 2017.

P.C.

1] The applicants are apprehending arrest in CR No. 52 of 2017 dated 26.1.2017 registered with D.N. Nagar Police Station, Mumbai under Sections 326, 324, 354, 509, 506(2), 323, 504 read with 34 of the Indian Penal Code.

2] The first information report is lodged by Shri Taslim Shaikh. It is stated that, due to some altercations which occurred prior to the date of incident, the applicants along with Lali called the first informant near them. When the complainant went near them, the applicant assaulted him with iron rod and wooden sticks on his head and other parts of the body. In the said assault, the complainant Taslim Shaikh received fracture to the little finger of right hand. In the premise the first information report is lodged.

3] The record reveals that the wife of the applicant-Abdul Noorani namely Smt. Nazia Noorani has lodged the counter complainant bearing No.53 of 2017 under Sections 324, 354, 452, 509, 506, 323, 504 read with 34 of the Indian Penal Code. It is stated in the said report that, the complainant herein forcefully entered into her house and assaulted her husband and other persons. There is another crime bearing No.59 of 2017 registered by Abdul Noorani, the applicant, for an incident which occurred at Cooper Hospital when the applicant went there to take medical aid after the incident in CR. No.52 of 2017. The record reveals that to the said CR No.59 of 2017, a counter case has been lodged bearing No.58 of 2017 by M. Arif Shaikh i.e. the brother of the complainant-Taslim Shaikh in CR. No.52 of 2017 which also alleges about scuffle and fight at Cooper Hospital.

4] As stated earlier, the applicant is apprehending arrest in CR No.52 of 2017. The first informant Taslim Shaikh in his report has categorically attributed role of assault with specific weapon on him by the applicants. The injury certificate issued by the Cooper Hospital of Taslim Shaikh also corroborates the version of the complainant. It is to be noted here that, an injury on the nose namely CLW has been recorded by the Doctor which is suffered by Taslim Shaikh. The medical certificate also mentions that there is fracture to the head at 5th Metacarpel of the right-hand. Thus, the statement of Mr. Taslim prima facie has been duly corroborated by the medical certificate issued by the Hospital.

5] In the present case, the police are yet to recover the weapons used by the applicants namely iron-rod and sticks. The police have applied Section 326 as there is fracture to the 5th Metacarpel of the right-hand of the complainant. After taking into consideration the serious allegations against the applicants, gravity of the offence and since the aforesaid weapons are yet to be recovered by the police, the applicants does not deserve to be protected by way of pre-arrest bail.

Both the applications are accordingly dismissed.

6] At this stage, the learned Senior Counsel for the applicants submitted that the applicants are intending to approach the Apex Court

against the present Order and therefore prayed that the interim relief granted by an Order dated 7th March 2017 be continued for a period of three weeks from today. In view of the statement made by the learned Senior Counsel for the applicants, the interim relief granted by an Order dated 7th March 2017 shall continue to remain in operation for a period of three weeks from today.

(A.S. GADKARI,J.)