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

ANTICIPATORY BAIL APPLICATION NO. 461 OF 2017

Aslam Tufail Ahmed Qureshi & Anr. .. Applicants
Vs.
The State of Maharashtra & Anr. .. Respondents

**WITH
CRIMINAL APPLICATION NO. 292 OF 2017**

Sayra Sagir Shaikh .. Intervener

In the matter between

Aslam Tufail Ahmed Qureshi & Anr. .. Applicants
Vs.
The State of Maharashtra & Anr. .. Respondents

Mr. Abhijeet Naik for the Applicants.
Mr. Abad Ponda i/b Shailesh Kharat for the Intervener.
Mr. Jayant Pardeshi, PI, Nirmal Nagar Police Station present.

**CORAM : A.S. GADKARI, J.
DATE : 30th MARCH, 2017.**

P. C. :

1. The applicants are apprehending arrest in C. R. No. 17 of 2017 dated 21.01.2017 registered with Nirmal Nagar Police Station, Mumbai under Sections 394, 354, 504 read with 34 of the Indian Penal Code.
2. The FIR is lodged by Smt. Sayra Sagir Shaikh. It is alleged in the said report that applicant No.1 Aslam has purchased one water tank and the same was kept in front of door of the complainant. As the said

water tank was not in use, due to the carcasses of rodents and other animals, it was stinking and caused nuisance to them and therefore, the complainant requested the applicant No.1 Aslam from time to time to remove the same. Because of the said reason, there was altercation between the complainant and her sister Smt. Yasmin on one side and applicant No.1 Aslam on the other side. That on 20.01.2017 at about 1.30 p.m. the sister of the complainant had been to the Nirmal Nagar Police Station for lodging the complaint. The complainant was at her residence. At that time applicant No.1 entered into her house along with one unidentified person and hit the complainant with a paver block. Applicant No.1 and the said unknown person were abusing in filthy language to Smt. Yasmin. When the complainant was trying to pacify applicant No.1 Aslam, the unknown person accompanying applicant No.1 committed an offence as contemplated under Section 354 of the Indian Penal Code. It is further stated that applicant No.2 Akram assaulted the complainant with an iron rod which was lying at the said spot. In the premise, the FIR is lodged on 21.01.2017 at about 1.10 p.m. (13.10 p.m.).

3. The record further reveals that applicant No.2 Akram Qureshi has lodged FIR bearing No. 16 of 2017 dated 20.01.2017 at about 8.20 p.m. (20.20 p.m.) with Nirmal Nagar Police Station under Sections 324, 323, 504, 506 read with 34 of the Indian Penal Code against the complainant in the present crime i.e. C. R. No. 17 of 2017. It is alleged that the complainant in C. R. No.17 of 2017 Smt. Sayra Qureshi and the

other accused on 20.01.2017 at about 4.00 p.m. assaulted applicant No.2 and other persons. The record further reveals that the applicants thereafter took treatment in the Municipal Hospital immediately on 20.01.2017. Medical Certificates dated 20.01.2017 issued in favour of the applicants are on record. It is to be noted here that the version narrated by the applicant in her FIR with respect to the commission of offence as contemplated under Section 354 of the Indian Penal Code, prima facie, appears to be improbable and has been mentioned only to widen the scope of investigation. It is further to be noted here that after the applicant lodged FIR dated 20.01.2017 bearing No. 16 of 2017 only with a view to counter the said allegations and as an afterthought the present crime i.e. C. R. No. 17 of 2017 dated 20.01.2017 came to be registered after 1.10 p.m. In view thereof according to me, the applicants have made out a case for their release on pre-arrest bail.

4. Mr. Ponda, the learned counsel for the original complainant Smt. Sayra Sagir Shaikh strenuously submitted that it is not a counter blast to the FIR registered by the applicants herein bearing C. R. No. 16 of 2017, but the complainant in the present crime has narrated a true and correct version to the police while lodging the FIR. He further submitted that after lodgment of the present crime i.e. C. R. No. 17 of 2017, the applicants herein are consistently threatening the complainant and tried to pressurize her to withdraw the complaint and therefore, she had to lodge several N.C. complaints with the police. He further submitted that the

applicants had influential persons in the locality and if they are released on pre-arrest bail, there is every possibility that the applicants will cause harm to the complainant and therefore, he prayed that the present application may be rejected.

Mr. Ponda further submitted that the complainant Smt. Sayra Shaikh has addressed a representation to the Additional Commissioner of Police, West Region, Mumbai, placing on record the facts of the case and she has also explained the delay in lodging the FIR. I am of the considered opinion that as there are drawbacks and loopholes in the FIR lodged by Smt. Sayra Shaikh, namely, C. R. No. 17 of 2017 with a clear afterthought and an attempt to improve her case, the complainant Sayra Shaikh has further mentioned the said facts in the said representation, which she failed to mention in her FIR. In view of the above, I am of the opinion that the applicants have made out a case for their release on pre-arrest bail.

5. Hence, the following order:

- (i) In the event of the arrest of the applicants in C. R. No. 17 of 2017 registered with Nirmal Nagar Police Station, Mumbai shall be released on bail on their furnishing PR bond of Rs.25,000/- each with one or two separate solvent sureties in the like amount.
- (ii) The applicants shall attend the Investigating Officer from 10.04.2017 to 15.04.2017 between 11.00 a.m. to 3.00 p.m.

and to join the process of investigation.

(iii) The applicants shall thereafter attend the Investigating Officer as and when called for between 11.00 a.m. To 1.00 p.m. and to join the process of investigation till the filing of charge-sheet.

(iv) The applicants are hereby directed not to indulge into activities thereby directly or indirectly advancing threat to the complainant Smt. Sayra Shaikh or any other witnesses in the present crime. If it is reported that the applicants are indulging into an activity thereby either pressurizing or threatening the witnesses in the present crime, the prosecution is at liberty to file an application for cancellation of their bail.

(v) The application is allowed in the above terms.

(vi) In view of the order passed in Anticipatory Bail Application No. 461 of 2017 and the hearing at length given to Shri Ponda, Criminal Application No. 292 of 2017 does not survive and stands disposed of accordingly.

[A. S. GADKARI, J.]