

Anand

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

ANTICIPATORY BAIL APPLICATION NO.712 OF 2017

Wajid A. Rajak Salar

.Applicant

Vs.

The State of Maharashtra

.Respondent

Ms Kshitija Moreshwar, Advocate, for the Applicant
Mr.Deepak Thakare, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 02.05.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks pre-arrest bail in connection with C.R.No.543 of 2016 registered with the Sadar Bazar Police Station, Solapur, for the alleged offences punishable under Sections 307, 324, 323, 504, 506, 427, 120B, 143, 147, 148, 149 of the Indian Penal Code, under Section 4(25) of the Indian Arms Act, under Section 135 of the Bombay Police Act and Under Sections 3 & 7 of the Prevention of Damage to Public Property Act.

3. Learned counsel for the Applicant submits that the

Applicant has been falsely implicated in the said case. She submitted that the Applicant has also sustained grievous injuries in the said incident dated 04.11.2016 which took place at 9.30 p.m. in the I.C.U. of the hospital. She submitted that in fact, the Applicant's complaint was not registered by the police and hence, the Applicant's wife was constrained to file a private complaint in the Court of the learned Magistrate and that the said case is pending. She further submitted that in the said incident, several persons from the Applicant's side had also sustained injuries. She relied on the Injury Certificates of Mujib Dadu Abdul Rajak Salar, Yusuf Abdul Ajij Salar, Mobin Abdul Rajak and Nayyum Ajij Salar in support of her submission to show that the Applicant's side had also sustained injuries.

4. Learned APP opposes the Application. He submitted that the Complainant - Gajhi Sadik Jahagirdar has specifically disclosed the complicity of the Applicant and has attributed a specific overt act to him. He further submitted that the said overt act corroborates the Medical Certificate which is on record. He submitted that there are antecedents as against the Applicant which are similar in nature. He further submitted that the Applicant has been absconding since November, 2016 and that

charge-sheet has been filed against some of the accused.

5. Perused the papers.

6. According to the Complainant - Gajhi Sadik Jahagirdar, two incidents took place on 04.11.2016; one at 8.30 a.m. (pursuant to which C.R.No.577 of 2016 was registered with the M.I.D.C.Police Station) and the second incident took place on 04.11.2016 at 9.30 p.m. in the I.C.U., Civil Hospital, Solapur, which is the present C.R. The Complainant has alleged that the Applicant alongwith other co-accused entered the I.C.U. of the Civil Hospital with swords, iron rods, etc. and assaulted the Complainant. It is alleged by the Complainant that the Applicant gave him a blow with a sword on his left thigh, behind his ear and on his hand and mouth. The Medical Certificates which are on page Nos.169 & 170 corroborates the said fact. In the incident, public property was also damaged by the Applicant and co-accused. The evidence of the Complainant is consistent with the statement of witnesses including the Doctors. Four similar cases have been registered as against him i. e. bodily related offences. The Applicant has been absconding since 2016.

7. Considering the material on record, qua the Applicant, this is not a fit case to grant pre-arrest bail. Accordingly, the Application is rejected & disposed of accordingly.

8. Needless to state, that the complaint filed by the Applicant's wife, before the learned Magistrate shall be decided on its own merits uninfluenced by the observations made in this order.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)