

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPTORY BAIL APPLICATION NO. 771 OF 2017**

Tanveer Khan Khalil Khan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Shaikh Ejaaz Noormohammed for the Applicant

Mr. S. H. Yadav, A.P.P for the Respondent-State

Mr. J. S. Kini a/w Mr. Suresh Dubey I/b Mr. Raju R. Gupta for the original complainant

PC Mr. Sandeep Shivaji Deshmukh, from Chavani Police Station, Malegaon, Nashik, is present

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 21st JUNE, 2017

P.C.

1. Heard learned Counsel for the parties.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. I-28 of 2017 registered with the Chavani Police Station, Malegaon, Nashik, for the alleged offences punishable under Sections 307, 143, 147, 148, 149, 323, 427 and 506 of the Indian Penal Code.

3. Learned Counsel for the applicant submits that the aforesaid complaint i.e. C.R. No. I-28 of 2017 has been lodged as a counterblast to the incident, which took place on the very same day i.e. on 14th February, 2017 at about 4:00 a.m, and the complaint lodged pursuant thereto. He submits that with regard to the incident of 14th February, 2017, which took place at 4:00 a.m., the complainant–Shaikh Farookh Shaikh Shakeel has lodged a complaint with the Malegaon Taluka Police Station, Nashik, which was registered vide C. R. No. I-41 of 2017 alleging offences punishable under Sections 307, 341, 143, 147, 148 and 149 of the Indian Penal Code, as against the complainant in the present case and others. He submitted that the applicant has been falsely implicated in the said case. He submitted that according to the complainant, he is an Animal Welfare Officer and that on 14th February, 2017, at about 11:45 a.m. to 12:00 noon, when he was waiting near the petrol pump, 8 persons along with 25-30 unknown persons came on motorcycles and assaulted him and damaged his Tata Sumo vehicle. He submitted that according to the complainant, the said persons were armed with wooden logs, iron rods, and that, the said persons threatened to kill him and started assaulting him, as a result of

which, he sustained grievous injuries. Learned Counsel for the applicant states that the applicant has not been named in the FIR. He further states that the applicant has no antecedents.

4. Learned A.P.P opposed the application. He submits that the applicant has been named in the FIR as Tannu Kasai and that Tannu Kasai and Tanveer Khan Khalil Khan (applicant) are one and the same. He further submitted that in the said incident, the complainant's car was damaged and the complainant sustained injuries. He has produced the injury certificate of the complainant-Machhindra Govind Shirke.

5. On the last date, the learned A.P.P had produced the papers of investigation. While going through the papers of investigation, the learned A.P.P was asked whether it was permissible to put up a Plate as was displayed on the complainant's car i.e. *'Zilla Mantri, Bajrang Dal, Vishwa Hindu Parishad'*. In view of the submission made by the learned Counsel for the applicant, the learned A.P.P was also asked to take instructions whether the complainant is an Animal Welfare Officer.

6. Learned Counsel for the intervener appeared today, for the first time, and opposed the application. He relied on the order of the learned Sessions Judge, in support of his submission. He submitted that the FIR discloses the complicity of the applicant, inasmuch as, the applicant has not only been named by the complainant, but there are allegations that the applicant alongwith other accused assaulted the complainant and threatened him with dire consequences. He submitted that the complainant has alleged in the FIR that he was threatened with dire consequences and that he was assaulted by the accused including the applicant with wooden logs, iron rods on his shoulder, back, chest, legs, hands.

7. Perused the papers. The complainant-Machhindra Govind Shirke has stated that he is the Zilla Mantri of Vishwa Hindu Parishad, Malegaon, and was also working as an Animal Welfare Officer. He has stated that they used to stop vehicles illegally carrying cows to slaughter houses. He has alleged that on 14th February, 2017 at about 11:45 a.m. to 12:00 noon, when he was near his Tata Sumo Car and chatting with one Rahul Bacchav; accused-Yusuf Khichada, Tannu Kasai (applicant), Badaka

Babu, Bhurya driver, Rais Qureshi, Aarif, Attu and other 25-30 unknown persons came on 15-20 motorcycles. He has alleged that the said persons told that they would not leave the complainant alive. He has stated that the said persons were armed with wooden logs, iron rods, and that they started damaging the complainant's car. He has further stated that when he started running to save himself, the said persons followed him and stated that he should be killed. He has alleged that he was assaulted by all the said persons with wooden logs and iron rods on his shoulder, back, chest, legs and hands. He has stated that as a result of the said grievous injury sustained by him, he was taken to Prayas Hospital, where he was admitted. A perusal of the injury certificate dated 14th February, 2017 shows that the complainant has sustained three injuries; (i) CLW over frontal region about 2 x 1.5 x 0.05 cm; (ii) CLW over right parietal region about 3 x 1 x 1.5 cm; and (iii) abrasion over face.

8. It appears that on the very same day, an incident had taken place at about 4:00 a.m, pursuant to which a complaint was lodged by one-Shaikh Farookh Shaikh Shakeel, which was registered vide C.R. No. I-41 of 2017, alleging offences punishable under Sections 307, 341, 143, 147,

148 and 149 of the Indian Penal Code. According to Shaikh Farookh, when he was carrying cows and bulls, his vehicle was apprehended by the complainant and others, as they were allegedly illegally transporting cows and their progeny. It is alleged by the complainant-Shaikh Farookh Shaikh Shakeel that he was assaulted by Subhash Prithviraj Malu and others.

9. Learned A.P.P informs that about 7 persons have been arrested so far and that the said persons have been enlarged on bail.

10. A perusal of the FIR shows that almost 30-35 persons allegedly assaulted the complainant. No specific overt act has been attributed to the applicant. The injury certificate shows that the three injuries sustained by the complainant are simple in nature.

11. As far as whether or not the complainant was an Animal Welfare Officer is concerned, learned A.P.P states that the complainant has not placed on record nor has produced any document to show that he was an Animal Welfare Officer, at the relevant time. As far as the plate affixed

by the complainant, learned A.P.P states that the same is illegal. Be that as it may, the fact remains that in the peculiar facts of this case, the custodial interrogation of the applicant is not required. There are no antecedents against the applicant. Accordingly, the application is allowed and the applicant is granted pre-arrest bail, on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount ;
- (ii) The applicant shall report to the Investigating Officer of the concerned Police Station as and when called till the filing of the charge-sheet or for a period of three months, whichever is earlier;
- (iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The Applicant shall not attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The applicant shall cooperate with the conduct of the trial.

12. The application is accordingly disposed of.

13. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application.

14. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.