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

**ANTICIPATORY BAIL APPLICATION NO. 1053 OF 2017
WITH
CRIMINAL APPLICATION NO. 647 OF 2017**

Ubaidullah Malik

... Applicant

V/s.

The State of Maharashtra

...Respondent

Mr. Arun Rajput i/b Anjali Patil for Applicant.

Mr. Ameet Palkar, APP for the Respondent/State.

Mr. M.A. Shaikh for Intervener.

CORAM : A.S.GADKARI, J.

DATE : 15th DECEMBER 2017

P.C.:

1] By a reasoned Order dated 21st June 2017 the applicants were granted interim relief with a direction to attend the Investigating Officer on stipulated dates and to join the process of investigation.

2] Heard the learned Counsel for the applicant, the learned Counsel for the Intervener and the learned APP for State. Perused the record of investigation.

3] The first information report is lodged by Kamaluudin Khan alleging that on 2nd May 2017 on the count of tying the goat to a public tap, there were altercations between the applicant and his son on side and the first informant and his colleagues on the other side. The said altercations ensued in free fight and it is alleged that during the said scuffle, the applicant took a bamboo stick which was lying near the scene of offence and assaulted with it on the head of the first informant. The record further indicates that the brother of the applicant namely Ataullah Malik has also lodged CR No.264 of 2017 under Sections 326, 323, 504 r/w 34 of the Indian Penal Code against the first informant in CR No.265 of 2017 and his colleagues.

4] After perusing the record, it appears that during the said free fight the applicant assaulted the first informant on his head with the bamboo stick which was lying near the scene of offence. Prima facie it appears that the alleged assault by the applicant on the first informant was not preplanned and took place on the spur of moment and therefore this Court is of the view that, the custodial interrogation of the applicant for further investigation of the present crime, is not necessary.

5] In view thereof, the interim relief granted by an Order dated 21st June 2017 is confirmed. However, the condition to attend the concerned Police Station is hereby waived.

Application is allowed in the aforesaid terms.

6] In view of Order passed in A.B.A. No.1053 of 2017, Criminal Application No. 647 of 2017 for intervention does not survive and the same is accordingly disposed off.

(A.S.GADKARI, J.)