

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL BAIL APPLICATION NO.2171 OF 2017**

**YAMESH DILIP DAREKAR**

**)...APPLICANT**

**V/s.**

**THE STATE OF MAHARASHTRA**

**)...RESPONDENT**

Mr.Prashant Pandey, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent - State.

**CORAM : A. M. BADAR, J.**

**DATE : 14<sup>th</sup> NOVEMBER 2017**

**P.C. :**

1           The applicant/accused in Crime No.344 of 2015 registered with Police Station Samata Nagar, for offences punishable under Sections 307, 143, 147, 148, 149 of the Indian Penal Code (IPC) and under Sections 37 and 135 of the Maharashtra Police Act, by this application, is seeking his release on bail, after filing of the charge-sheet.

2            Heard the learned advocate appearing for the applicant/accused. By inviting my attention to the Injury Certificate as well as the statement of the alleged victim of the crime in question, the learned advocate argued that the statement of the victim indicates that he added embellishments to his version and attempted to rope in as many persons as he can, by attributing several weapons to them. The learned advocate further argued that statement of Akash Gupta, who is the cause of the alleged incident, is not recorded, and the First Information Report (FIR) itself indicates that the alleged victim of the crime in question was indulging in extortion in the locality.

3            The learned APP opposed the application by contending that the applicant/accused was externed at the relevant time and he has checkered history of crimes registered against him. However, learned APP fairly accepted the fact that, apart from Injury Certificate at page 100, there is no other Injury Certificate showing that the victim of the crime in question had suffered some more injuries in the incident.

4           I have carefully considered the rival submissions and also perused the entire charge-sheet. The FIR of the crime in question is registered on the basis of report lodged by Rahul Shukla. This FIR itself goes to show that Akash Gupta – associate of the alleged victim Akhilesh, was sent to the market for collecting fruits and vegetables free of cost from the vendors on the pretext of “Bhandara” at the temple. The prosecution case is to the effect that Akash was assaulted by the present applicant/accused and his associates, and therefore, Akhilesh - alleged victim of the crime in question, was called on the spot. Statement of Akhilesh shows that when he reached the spot, he found the present applicant/accused was just standing beside Akash Gupta. It is further seen that Akhilesh had questioned the present applicant/accused. The present applicant/accused then replied Akhilesh i.e. the alleged victim, that on the pretext of “Bhandara” the vendors should not be compelled to give the material free of cost. Then the incident in question took place. the First Informant alleged that at the instance of the present applicant/accused, his several friends gathered on the spot, one of

which was having a pistol. Statement of the alleged victim Akhilesh shows that about 25 associates of the present applicant/accused had assaulted him by means of iron rods, iron pipes, wooden sticks etc. He stated that he was brutally assaulted by those assailants, who were atleast about 25 persons. If Injury Certificate of Akhilesh is compared to his version, then it is seen that Akhilesh had suffered simple abrasions on his lips, simple contusion over left side of his face and displaced fracture of nasal bone. It will have to be considered at the time of the trial whether the intention was to commit murder of Akhilesh.

5 Suffice to conclude that, the alleged victim had suffered only minor injuries in the incident in question. At his instance, fruits and vegetables were collected from the vendors free of cost, to which the present applicant/accused protested.

6 The argument of the prosecution that as the present applicant/accused is having criminal history can be taken care of by imposing stringent conditions on the applicant/accused. For

that, his liberty need not be curtailed by way of punitive action as pre-trial detention. Hence, the order :

**ORDER**

- i) The application is allowed.
- ii) The applicant/accused in Crime No.344 of 2015 registered with Police Station Samata Nagar, for offences punishable under Sections 307, 143, 147, 148, 149 of the IPC and under Sections 37 and 135 of the Maharashtra Police Act, is ordered to be released on bail on his executing PR.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount.
- iii) As a condition of this order, the applicant / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.
- iv) The applicant/accused should not contact the alleged victim injured Akhilesh in any manner.
- v) The applicant / accused should not commit any crime in future while enjoying liberty under this order.
- vi) Failure to abide by the conditions so imposed shall warrant cancellation of bail granted to the applicant/accused.

**(A. M. BADAR, J.)**