

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1737 OF 2017

VIJAY SUBANNA POOJARY)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Rahul Kate i/b. Devendra Pawar, Advocate for the Applicant.

Mrs.PPShinde, APP for the Respondent – State.

Mr.Shivanand Kumbhar, A.P.I., Narpoli Police Station, Bhiwandi, Thane, present in court.

CORAM : A. M. BADAR, J.

DATE : 3rd OCTOBER 2017

P.C. :

1 This is an application by the applicant / accused Vijay Poojary seeking pre-arrest bail in Crime No.I-356 of 2016 for offences punishable under Sections 326, 324, 504 read with 34 of the Indian Penal Code (IPC), registered with Police Station Narpoli, District Thane, on the basis of the report lodged by Chirag Shah.

2 Heard the learned advocate appearing for the applicant / accused at sufficient length of time. By drawing my attention to injury certificate at page 50, the learned advocate argued that the injuries reflected in the certificate are apparently simple injuries and therefore, the offence punishable under Section 326 of the IPC is not attracted. The learned advocate further argued that on 4th August 2016, the applicant / accused had left Thane to reach Baroda on 5th August 2016. Then he went to Ahmedabad and on 6th August 2016, he reached Bhuj. On 7th August 2016, he was at Ajmer. In this situation, it was not possible for him to remain present at the spot of the incident to assault the injured as well as the First Informant. The learned advocate further drew my attention to the order of preventive detention dated 19th March 2016 and submitted that because of look out notice, there was no possibility of air travel by the applicant / accused. It is, therefore, clear that he is falsely implicated in the crime in question.

3 Heard the learned APP appearing for the respondent /
State.

4 The First Information Report (FIR) is lodged on 6th
August 2016 by the First Informant Chirag Shah. He has
categorically stated that for demanding back the amount of Rs.95
lakh handed over to the applicant / accused as a hand loan, he
had been to him on 6th August 2016. The First Informant stated
that he was accompanied by Mustafa Hussaini and Afzal Shaikh.
It is averred in the FIR that upon being asked for money, the
present applicant / accused questioned the First Informant and
slapped him. Hence, his friend Mustafa attempted to save him
from clutches of the applicant / accused and at that point of time,
the applicant / accused inflicted blows of knife on neck and back
of Mustafa. His associate assaulted the First Informant by means
of fist blows and iron rod.

5 Role of the present applicant / accused is consistently
and categorically described by injured eye witnesses Mustafa

Hussaini as well as another eye witness Afzal Shaikh. It is seen from the injury certificate that blow of knife was on neck as well as back of Mustafa. Size of injuries is also reflected in the injury certificate. Injury certificate of First Informant Chirag Shah also shows that he received blow of blunt object on his left wrist.

6 Considering the part of body chosen for giving blows of knife on the injured victim, I do not feel that this is a case for grant of pre-arrest bail.

7 Plea of alibi is required to be taken up and proved by adducing cogent evidence during the course of trial. Injured witnesses are categorically ascribing specific role to the present applicant / accused, and therefore, at this stage, it cannot be said that the applicant / accused was not present on the scene of occurrence at the time of the crime. Therefore, the order :

ORDER

The order is rejected.

(A. M. BADAR, J.)