

Anand

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

ANTICIPATORY BAIL APPLICATION NO. 537 OF 2018

Waqas Ahmed Sagir Ahmed Malik .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Gautam Jain a/w Mr. M. M. Farooque Nisar, Advocate, for the
Applicant

Mr. M. G. Patil, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 11.04.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks pre-arrest bail in connection with C. R. No. I-413 of 2017 registered with the Bhiwandi City Police Station, Bhiwandi, for the alleged offences punishable under Sections 109, 143, 147, 148, 149, 323, 326 & 504 of the Indian Penal Code.

3. Learned counsel for the Applicant submits that with respect to the incident dated 15.12.2017, there is a cross case lodged by the

Applicant's side which is registered vide C. R. No. 414 of 2017 for the alleged offences punishable under Sections 307, 143 etc.. He submits that no specific role has been attributed to the Applicant. He submitted that no grievous injuries were sustained by either of the injured i. e. Abdul Rahim Mohammed Shaikh, Momin Musa Mohammed Ansari & Abdul Rahim Mohammed Ismail. He submits that the nature of injuries sustained are simple in nature by all the injured. He submits that infact the Applicant's side have received grievous injuries.

4. Learned APP has tendered the Injury Certificates of the injured in both C. Rs. i. e. C. R. No. 413 of 2017 & C. R. No. 414 of 2017.

5. Perused the papers. A perusal of the Injury Certificate of the Complainant – Abdul Rahim Mohammed Shaikh in C. R. No. 413 of 2017 shows that he received two injuries 1 C.LW. on the frontal parietal region (grievous injuries) and one contusion on the frontal parietal region (grievous injuries). Momin Musa Mohammed Ansari has also received contusion over occipital region (simple injury) and Abdul Rahim Mohammed Ismail Momin has received one C.L.W. on his right forehead (simple injury). It appears from the prosecution case that it is

co-accused Shakil Razak, who has assaulted the Complainant – Abdul Shaikh with a wooden stick. No role has been attributed to the Applicant in the FIR. Amongst eye witnesses, only one eye witness has stated that the Applicant was present at the spot with a wooden stick. No specific role has been attributed by the said witness. As far as a cross case lodged by the Applicant's side in C. R. No. 414 of 2017 is concerned, the Complainant therein i. e. Kasim Mohammed Ansari has received one C.LW. over the right frontal region (simple injury); Hasim Shahid Ansari has received two contusions, one on the left hand leg and one on forehead. Pursuant to the Order dated 21.03.2018, the Applicant has attended the concerned police station.

6. Considering the role of the Applicant and the nature of allegations qua him, custodial interrogation of the Applicant is not necessary. Hence, the Application is allowed and the Applicant is granted pre-arrest bail on the following terms & conditions :-

ORDER

(i) In the event of arrest, the Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs. 15,000/-** with one or two sureties in the like amount;

(ii) The Applicant shall attend the concerned police station on

every Monday & Thursday between **10.00 a. m. and 11.00 a. m.** till filing of the charge-sheet;

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

(iv) The applicant to cooperate with the conduct of the trial.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

(REVATI MOHITE DERE, J.)