

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 1549 OF 2018**

Ashfaq Ali Mehboob Ali Shaikh

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Sushrut Jadhwar, Advocate for the Applicant.

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

Mr. Mubin Pathan for the Complainant.

API Gokul Borse Parksite P.S. Mumbai present.

CORAM : A. S. GADKARI, J.**DATE : 3rd August, 2018.****P.C.:-**

1. This is an application under Section 438 of Cr.P.C. for pre-arrest bail in C.R. No. 243 of 2018 dated 17/5/2018 registered with Parksite Police Station, Mumbai for the offence punishable under Sections 307, 504, 506 (2) read with section 34 of the Indian Penal Code.

2. Heard learned counsel for the applicant, learned counsel appearing for the first informant and the learned APP for the State. Perused the record of investigation.

3. The first information report is lodged by Shri Mohammad Nazir Sayyad. It is stated that the nephew of the informant, namely Aslam Sayyad was observing a fight wherein the applicant and co-accused were

assaulting one Mr. Firoz @ Chuha. In the said fight, the applicant had a dash with the nephew of the informant, namely Aslam Sayyad and thereafter the applicant and co-accused started assaulting the nephew of the informant, with fists and kick blows. At that time the informant went there and tried to pacify the said fight and questioned the applicant about what had happened. Upon which the applicant and other accused persons abused the informant, assaulted him by fists and kick blows and thereafter the applicant took out a chopper which was concealed at his waist and put it on the neck of the informant and threatened him of dire consequences. At that time, co-accused Rizwan assaulted with a chopper on the back of the informant. When after hearing the hue and cry the people from the vicinity gathered at the spot, the applicant and co-accused fled away from the scene of offence.

4. The learned counsel for the applicant submitted that it is the co-accused Rizwan who assaulted the informant. It is allegation against the applicant that he threatened the informant with a weapon and therefore the custodial interrogation of the applicant is not necessary. He therefore prayed that the applicant may be granted pre-arrest bail.

5. The record of investigation indicates that the version narrated by the informant is fully corroborated by the medical certificate issued by the Medical Officer, Rajawadi Hospital, Ghatkopar, Mumbai. The applicant

and the co-accused have assaulted the informant on a trifle ground. The weapon used in the present crime is to be recovered by the police and the same is not possible without there being thorough interrogation of the applicant by the police.

6. After taking into consideration the record of investigation, serious allegations against the applicant and the gravity of offence, this Court is of the considered view that the applicant does not deserve to be protected by pre-arrest bail.

7. The application is accordingly rejected.

8. It is to be noted here that, the observations made herein are prima facie in nature and are made in context, while deciding the present application and the learned Magistrate and/or the learned Trial Court shall not be influenced by the same at the time of deciding regular bail application of the applicant.

(A.S. GADKARI, J.)

Radhakishan
Shivlal
Ladda

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