

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1747 OF 2018

Mohammed Zaid Gulam Husain Patni,  
Age 27 years, Occ.Unemployed,  
R/o.Apna Ghar, 3/17, 1<sup>st</sup> floor,  
Near Alishan Theatre, Mumbra, Thane-400 612. Applicant

versus

The State of Maharashtra Respondents  
Mr.Khan Ishrat Ali Azhar Ali for applicant.  
Mr.S.V.Gavand, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 31<sup>st</sup> August 2018

PC :

1. This is an application for anticipatory bail in connection with CR No.I-144 of 2018. Initially offences were registered under Sections 325, 326, 504, 506-II, 143, 147, 148, 149 of Indian Penal Code and Sections 4 and 25 of Indian Arms Act and Section 37(1) of Bombay Police Act. Subsequently charge u/s 307 of IPC was added. The case of prosecution is that on 18<sup>th</sup> March 2018 the injured person was assaulted by the accused. They were armed with sword, bat and wooden stumps. The FIR was lodged on 19<sup>th</sup> March 2018. The complainant who was accompanying injured person has stated that the accused including the applicant came at the place where complainant and injured Aadil was standing and on account of previous quarrel, the accused decided to assault Aadil. Amongst them was Khalid, who assaulted the injured by sword on his head, Sohil assaulted by wooden stump on his head. The other accused Badshah, Zaid (applicant), Danish abused the injured and assaulted

him by wooden bat and stump on his head and other parts of body. The injured sustained serious injuries. When the people gathered at the scene of offence, the accused threatened them that they should not come forward to help the injured or else they would be assaulted by them. The statement of injured was recorded on 25<sup>th</sup> March 2018. In the statement he has specifically stated that the applicant had assaulted him by wooden bat and gave blow on his head.

2. Some of the accused were arrested and charge sheet has been filed against them. The applicant had preferred anticipatory bail application before Sessions Court, which was rejected on 30<sup>th</sup> July 2018.

3. The advocate for applicant submitted that while rejecting the application learned Sessions Judge has observed that the applicant and co-accused had assaulted the injured by means of sword and wooden stumps. Learned counsel for applicant submits that the application was rejected erroneously since the role attributed to the applicant by the injured is that he had assaulted by wooden bat. It is also submitted that the complainant had given vague version in the complaint with regards to assault by accused. It is further submitted that in the reply filed by the prosecution before the Sessions Court it was stated that custody was sought for recovery of cloths.

4. Learned APP, however, submitted that the applicant's involvement is clearly established. Specific overt act has been attributed to him. The injured was severely assaulted and he was required to be hospitalized.

5. I have gone through the FIR and the other documents which are annexed to this application. On perusal of the same it is apparent that specific overt act has been attributed to the applicant. He was amongst the other accused who had jointly assaulted the victim. The accused had inflicted blows on the head of injured Aadil. The incident was witnessed by complainant and immediately FIR was registered. Considering the nature of allegations and the overt act attributed to the applicant, case for grant of anticipatory bail is not made out and Criminal Anticipatory Bail Application No.1747 of 2018 is rejected.

(PRAKASH D. NAIK, J.)

MST