

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1839 OF 2018

Mohammad Shafik Mustakim Mohammad Shah,
Age 23 years, R/o.Room No.551, Vishnu Nagar
Society, L.U.Gadkari Marg, Chembur,
Mumbai-400 074.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Arun Rajput I/by Anjali Patil for applicant.
Mrs.G.P.Mulekar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 10th September 2018

PC :

1. The applicant is apprehending arrest in connection with CR No.64 of 2018 registered at R.C.F.Police Station for the offences punishable under Sections 307, 143, 147, 149 of Indian Penal Code as well as Sections 37(1) and 135 of Maharashtra Police Act.

2. The case of prosecution is that on 26th February 2018 the complainant was proceeding to his house when he noticed that his cousin was playing cricket. There was a quarrel between him and his friend on account of game of cricket. At that time Mr.Shamsuddin came there and he assaulted a small boy. The complainant requested him not to assault the boy. At that time Irshad came there with iron rod and gave blow at the forehead of the complainant. The other accused gave fist blows to them and also assaulted by iron

pipe. The accused also assaulted the injured persons by paver block. Pursuant to that the FIR was registered. It also appears that cross FIR was also registered at the instance of opposite side. The said FIR was registered on the basis of statement of injured Taslim Shah for offences u/ss.307, 143, 147, 149 of Indian Penal Code. The opponents had also sustained injuries. Irshad had sustained injuries due to the assault which is evident from the photograph annexed to this application. According to the prosecution, the applicant did not sustain any injury. Learned advocate for applicant submitted that on a petty issue there was a quarrel between two groups. The complainant has not attributed any specific overt act to the applicant. There is a cross FIR registered against the complainant in the present case and his associates. The persons from the applicant's side had also sustained injury.

3. Learned APP submitted that both sides had indulged in violence. The complaints are registered against them by each other. She further submitted that the injured persons including the complainant in the present case had sustained injuries. She placed on record the injury report.

4. On perusal of the FIR and other documents it is apparent that the cause of quarrel and the assault is on account of cricket match which was being played by children. Both sides had indulged in violence. It appears that eight persons in the present case have been arrested and they are granted bail. I have perused the injury certificate of Rakesh Choudhary,. It appears that he had sustained injury on his forehead which is simple in nature. The injury sustained by Vinayak Mirashi is also simple in nature. Akhilesh Singh

has also sustained injury purportedly by stone which is also simple in nature. The injury certificate of Shashikant Mirashi shows that he has sustained injury to his head by blunt object and the injury certificate refers to CLW which is simple in nature. However, learned APP submitted that he has sustained eleven stitches on his head. It is further submitted by the APP that the applicant is avoiding arrest and he is absconding.

5. Be that as it may, it is apparent that both sides have lodged the complaints against each other for the offence under Section 307 of IPC. The weapons are recovered from the accused who are already arrested by investigating machinery. The injured person from the applicant's side had also sustained injuries which is apparent from the photograph which is annexed to the application. There was a free fight between both the groups who had assaulted each other. In the circumstances I find that custodial interrogation of the applicant is not necessary and he can be granted protection under Section 438 of Cr.P.C on certain conditions.

6. Hence, I pass following order :

ORDER

(i) In the event of arrest of applicant in connection with CR No.64 of 2018 registered with R.C.F.Police Station, the applicant be released on bail on furnishing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;

(ii) The applicant shall report the investigating officer of R.C.F. Police Station twice a week on every Wednesday and Friday between

10 am and 12 noon till filing of charge sheet and thereafter once in a month on every first Saturday between 10 am and 12 noon;

(iii) The applicant shall not tamper with the evidence;

(iv) Criminal Anticipatory Bail application No.1839 of 2018 is disposed off.

(PRAKASH D. NAIK, J.)

MST