

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 1707 OF 2017**

Sajjad S/o. Noor Mohd. Siddiqui

....Applicant.

Vs.

The State of Maharashtra & Anr.

....Respondents.

Mr. S.H. Joshi with Neelam Gupta i/by S.R. Gupta for the Applicant.
Mr. Ameet Palkar APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 25th JUNE, 2018.

P.C.:-

By an Order dated 28th September 2017, the Applicant was granted interim relief.

2 Heard Shri Joshi, the learned counsel for the Applicant and Mr. Palkar, the learned APP. Perused the record of investigation.

3 The prosecution case in brief is that, Shamshad Ahmed and Naushad Ahmed were taking their goat/sheep for Eid and at that time, Shamshad Ahmed dashed with Mr. Abu Bakar i.e. uncle of the first informant Ms. Afsana Ashraf Khan, which gave rise to altercation between them. That, Shamshad Ahmed gave threat of dire consequences to Abu Bakar, for the same.

It is alleged that, on 1st September 2017, at about 8.00 p.m. the Applicant along with his family members assaulted Arshad Khan i.e. the brother of first informant. That, the Applicant was armed with an iron rod. The mother of the Applicant had held the head of Arshad Khan and the Applicant gave blow with an iron rod on the head of said Arshad Khan which caused serious injury to his head. It is further alleged that, the Applicant also assaulted first informant Ms. Afsana Ashraf Khan on her right shoulder.

4 The learned counsel for the Applicant submitted that, the mother of the Applicant has also lodged CR No. 486 of 2017 on the same date i.e. on 1st September 2017, under Sections 324, 452, 504, 506 r/w Section 34 of the Indian Penal Code against Abu Bakar Khan, Mohammad Ashraf Khan, Mohammad Akram Sharif Khan and others for assaulting Shahnaz Begum i.e. the mother of the Applicant. He further submitted that, the accused persons in the said crime i.e. CR No. 486 of 2017 have been released on pre-arrest bail by the Trial Court. He further submitted that, the allegations against the Applicant are false and as a matter of fact, the Applicant never involved in the said assault. He further submitted that, he attended the Investigating Officer on several occasions and had joined the

process of investigation and therefore, the custodial interrogation of the Applicant is not necessary. He, therefore prayed that, the Applicant may be granted pre-arrest bail.

5 A minute perusal of both the crimes i.e. CR No. 486 of 2017 lodged by the mother of the Applicant and the present crime bearing CR No.487 of 2017 lodged by Ms. Afsana Ashraf Khan against the Applicant would reveal that, the cause of action for a said fight is one and the same i.e. Shamshad Ahmed and Naushad Ahmed were taking their goat/sheep for Eid and at that time, Shamshad Ahmed dashed with Mr. Abu Bakar i.e. the uncle of the first informant Ms. Afsana Ashraf Khan, due to which, initially altercation took place and the brother of the Applicant namely Shamshad Ahmad gave threat of dire consequences to the uncle of the first informant. That, in pursuance of the said threat, the Applicant and her family members assaulted Ashrad Khan i.e. brother of the first informant Ms. Afsana Ashraf Khan and as stated earlier, it is alleged that the Applicant has assaulted Arshad Khan with an iron rod on his head. The injury certificate issued by V.C. Gandhi and M.A. Vora Municipal General Hospital, Rajawadi, Ghatkopar duly corroborates the version of the first informant. It is stated that Arshad Khan has received CLW on his

parietal region and the said injury is possible by a blunt object.

6 It is to be noted here that, though the Applicant has attended the Investigating Officer on stipulated dates as per the directions, he did not cooperate in the process of investigation. The recovery of weapon used in the present crime is yet to be effected and the same is not possible unless the Applicant is thoroughly interrogated by the police.

7 In view of the above and after taking into consideration the serious allegations against the Applicant and the gravity of the offence, this Court is of the considered view that, the Applicant does not deserve to be protected by pre-arrest bail.

8 Application is accordingly rejected.

(A.S. GADKARI, J.)