

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1711 OF 2017

Shubham Suresh Karande

..Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Anand Shivaji Patil for the Applicant .

Mr. S. R. Agarkar, APP for the Respondent.

Mr. M.P.Bhange, PSI Hadapsar Police Station.

CORAM : P. N. DESHMUKH, J.

DATE : 14th MARCH, 2018

P.C.:

. This application is filed by accused involved in C.R. No.444/2017 registered with Hadapsar Police Station, District Pune for grant of anticipatory bail under section 307, 323, 147, 148, 149 of IPC and under section 135(3)(1) of Bombay Police Act.

2. Applicant is protected by the interim order of this Court passed on 28/9/2017.

3. Considering the specific case of the applicant that on the spot of incident he was not present as on that date he was in Mumbai, learned counsel for the applicant submits CCTV footage of Sun Tower CHS, Bhoiwada, Dadar, Mumbai establish that at the time of incident applicant is seen proceeding near from Sun Tower CHS.

4. Mr. Agarkar, Learned APP had obtained instructions from Investigating Officer and by referring to the said CCTV footage near Sun Tower building, a copy of which is filed with the chargesheet has stated

that as per contents of this document faces of persons passing near from Sun Tower Society which are captured in the camera are not visible. In that view of the matter case of applicant visiting said building and his case based on plea of alibi cannot be considered.

5. Therefore, considering the application on merits it appears that assault is committed on the complainant by co-accused and 7-8 other unknown persons by iron rod, sickle on his head after he was caught hold by co-accused Shubham. In the report only involvement of applicant is of assaulting Akash Gole and Abhijit Shirsagar and others who are however not named in the report. In the background of said contents, perusal of statements of Akash Gole and Abhijit Shirsagar reveals that there is no mention of name of applicant much less as their assailant in their statements. Similarly, statement of one Bhagwan Narhari Kale, who claims to be an eye witness also do not establish any involvement of applicant in the assault.

6. In that view of the matter, only involvement of the applicant in present crime appears to be by way of his name mentioned in the report filed by complainant. In view of available evidence against the applicant and since investigation is complete and chargesheet is filed wherein applicant is shown as absconding accused, application is liable to be allowed as per order below:

ORDER

Interim order dated 28/9/2017 granting protection from arrest of applicant stands confirmed.

(P.N. DESHMUKH, J)