

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

ANTICIPATORY BAIL APPLICATION NO.1963 OF 2018

Sufiyan Mohd. Shakil Momin

.. Applicant

Vs.

State of Maharashtra

.. Respondent

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Mr.Sachin B. Chandan, Advocate for the Applicant.
Mr.A.R. Kapadnis, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : SEPTEMBER 25, 2018.

P.C. :

Applicant is seeking anticipatory bail in connection with C.R. No. I - 268 of 2018, registered with Narpoli Police Station for the offences punishable under Sections 307, 341, 323, 143, 147, 148, 149, 504 and 506 of Indian Penal Code (for short "IPC") and under Sections 37(1) and 135 of Bombay Police Act.

2 The prosecution case is that the complainant is working as a waitress in WWF Hotel. On 17th June, 2018 at about 9:30 p.m., she finished her duty and she waited for the co-worker whose duty was going on. Thereafter, both of them were going towards Kongaon in Rickshaw. At about 10:10 pm. while the

complainant and the other co-worker were travelling by Rickshaw, the accused came by motor cycle and they stopped the complainant and her companion. Some of them have assaulted the complainant by knife causing serious injuries to her. Complainant has given names of Mohsin and Mahesh who were allegedly carrying knife and third person was unknown to the complainant. He assaulted the other person by fist and kicks. FIR was registered for the aforesaid offences. During the course of investigation, statement of other persons were recorded. All the accused were arrested and produced before the Court. The name of the applicant was shown as wanted accused.

3 Applicant preferred application for anticipatory bail which was rejected. It is submitted by the counsel for the applicant that the applicant's name was not reflected in the FIR. However, from the remand application, it was learnt that the applicant was wanted accused in the said case. Supplementary statement of applicant and the statement of other witnesses refers to presence of the applicant was recorded. No specific overtact has been attributed to the applicant. Applicant has not used any weapon for commission of crime.

4 Learned APP submitted that the accused were

involved in serious crime. Injury certificate shows that the victim had sustained severe injuries. Accused had assaulted the complainant by using knife. Applicant is one of the person who came at the spot of incident on the motor cycle. The role of assaulting the complainant by fist blows is attributed to the applicant and others. It is also submitted that the test identification parade was conducted. There is evidence against the applicant. It is submitted that the statement of witness Barendra Tarai was recorded on the date of incident who has referred the incident. Six other co-accused were arrested. Charge-sheet has been filed against the arrested accused. First informant has referred to assault by Mohsin, Mahesh and one unknown person. The complainant has not referred to the presence of the applicant in the FIR. She has also not stated that several other persons were present at the scene of offence. However, in the supplementary statement, she has referred to the name of the applicant as present at the scene of offence, who came on motor cycle. There is no specific overtact attributed to the applicant. The role is attributed to the other accused. The witness Barendra Tarai stated that the applicant was present at the scene of offence and came there on a motor-cycle. Specific role of assault by knife is attributed to the other accused. In the

circumstances, the custodial interrogation of the applicant is not necessary and the case for grant of anticipatory bail is made out.

5 Hence, I pass the following order:

:: ORDER ::

- (i) In the event of arrest of the applicant, in connection with C.R.No.I-268 of 2018, registered with Narpoli Police Station, District-Thane, he may be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (ii) Applicant shall report the investigating officer once in a week on every Friday between 10:00 a.m. to 12:00 noon, till filing of the charge-sheet, and, thereafter, once in a month on first Saturday of the month, till further orders;
- (iii) Applicant shall not tamper with the evidence;
- (iv) Anticipatory Bail Application No.1963 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)