

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2047 OF 2018

1. Abrar Gulam Patel,
2. Ashraf Abra Patel,
3. Aktar Abrar Patel,
4. Aslam Rafiq Shaikh,
5. Liyakat Bundu Shaikh,
all r/o.Gate NO.6, New Collector Compound,
Malwani, Malad (W), Mumbai-400 095.

Applicants

versus

The State of Maharashtra

Respondent

Mr.Khalid Naseem Khan for applicant.

Mr.R.M.Pethe, APP, for State.

Ms.Plonam J. Kale, API, Malvani Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 5th October 2018

PC :

1. The applicants are apprehending arrest in connection with MECR No.121 of 2017 registered with Malwani Police Station for offences under Sections 127, 323, 324, 326, 354, 504, 506, 506(ii), 34 and 120(B) of Indian Penal Code. The FIR was lodged on 17th October 2017. According to the complainant, on 4th November 2016, at about 12.30 in the night, some persons had knocked the doors of the complainant. They noticed that Iqbal Khan Tahir Khan, Ibrahim and two others namely Aslam Shaikh and Liyakat Shaikh and Abrar Shaikh were standing outside the house. They abused the complainant and her son. They trespassed into the house and outraged the modesty of the complainant. One of them namely

Tahir Khan assaulted the applicant by steel rod. All of them also assaulted the son of complainant. They were treated at the hospital.

2. Learned counsel for applicant submits that false and frivolous complaint has been filed against the applicants. On 4th November 2016 the FIR was lodged with Malwani Police Station vide CR No.683 of 2018 against the sons of present applicant. The injured in the said FIR had sustained severe injuries on his head at occipital region and thus said offence was registered under Section 307 of IPC.. Learned counsel has relied upon photographs and injury certificate of the injured in CR No.683 of 2016. It is submitted that the applicants were falsely implicated in MECR lodged by present complainant. Apart from that, role of assaulting by steel rod was assigned to accused Tahir Khan who was arrested and granted anticipatory bail.

3. Learned APP submitted that the complaint lodged by the present complainant cannot be said to be false as the assault is supported by medical evidence. He relied upon the injury certificates of the complainant and her son. It is submitted that the complainant has sustained fracture to her forearm as reflected in the injury certificate.

4. It is pertinent to note that the FIR was lodged against the sons of complainant on 4th November 2016 u/s 307, 324, 506 of IPC. Apparently police did not take cognizance of the complaint filed by complainant and therefore private complaint was filed in which directions were issued u/s 156(3) and consequently MECR is registered. The person who is attributed the role of assaulting by

steel rod has been granted bail by Sessions Court. In the light of aforesaid circumstances, case for grant of pre-arrest bail is made out.

5. Hence, I pass following order :

ORDER

- (i) Leave to amend to correct CR number is granted;
- (ii) In the event of arrest of applicants in connection with MECR No.121 of 2017 registered with Malwani Police Station, the applicants be released on bail on furnishing PR bond in the sum of Rs.20,000/- each with one or more sureties in the like amount;
- (iii) The applicants shall report Malwani Police Station once in a fortnight on Saturday between 10 am and 12 noon till filing of charge sheet;
- (iii) Criminal Anticipatory Bail Application No.2047 of 2018 is disposed off.

(PRAKASH D. NAIK, J.)

MST