

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

ANTICIPATORY BAIL APPLICATION NO.2081 OF 2018

Amit Rajbahadur Tiwari .. Applicant

Vs.

State of Maharashtra .. Respondent

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Mr.Asharam Shukla, Advocate for the Applicant.

Mr.A.R. Kapadnis, APP for the Respondent – State.

Mr.S.R. Shinde, API Samta Nagar Police Station, Mumbai,
present.

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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 16, 2018.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.585 of 2018, registered with Samta Nagar Police Station, Mumbai, for the offences punishable under Sections 326, 384, 506(2), 323 and 504 read with 34 of Indian Penal Code (“IPC”, for short). FIR was registered on 5th September, 2018.

2 The case of the prosecution is that the applicant and one Ramesh Tiwari are brothers and they are the residents of the same area and hence they are known to the complainant. The

brother of the applicant was interested in conducting the bar owned by the complainant and he had made such request to the complainant, which was not acceded by him and hence Ramesh used to threaten the complainant. One Sunil Shetty and Swami Gaud were also conducting the said bar and the rent towards the said premises was not paid by them to the complainant. On 5th September, 2018 at about 9:30 a.m., the complainant was on his way to his shop. At that time, he noticed Ramesh Tiwari, applicant and Swami Gaud standing on the road. Complainant was called by them and asked him whether he is willing to allow them to conduct his bar. They started abusing and beating him. All of them manhandled the complainant. Ramesh Tiwari demanded an amount of Rs.50,00,000/-. Ramesh Tiwari told him to pay Rs.50,00,000/- or that he should be permitted to conduct the bar. Ramesh Tiwari also assaulted the complainant by bottle. Thereafter all of them left the place.

3 FIR was registered. Applicant preferred an application for anticipatory bail before the Sessions Court, which has been rejected. Learned counsel for the applicant submitted that the alleged offences are not made out against the applicant. Taking the prosecution case as it is, the offence of extortion is not

established by the prosecution. It is further submitted that the co-accused Ramesh Tiwari to whom the primary role was attributed by the complainant has been arrested on 5th September, 2018 and the bottle, which was used in commission of crime has been recovered at his instance.

4 Learned APP submitted that the the applicant was present along with other accused at the time of commission of offence. All the accused abused and assaulted the complainant.

5 On perusal of the FIR, it is apparent that on 5th September, 2018, while the complainant was proceeding towards his shop, he was intercepted by the accused. Threats were issued by Ramesh Tiwari and he was assaulted by a bottle by Ramesh Tiwari. He has been arrested and he is in custody. Thus, the primary role of assaulting the complainant is attributed to Ramesh Tiwari. Applicant was not armed with any weapon. Demand was also made by the arrested accused. In the circumstances, the custodial interrogation of the applicant is not necessary and the case for grant of anticipatory bail is made out.

6 Hence, I pass pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application No.2081 of 2018, is allowed;
- (ii) In the event of arrest of the Applicant in connection with C.R.No.585 of 2018, registered with Samtanagar Police Station, Mumbai, he may be released on his furnishing P.R. Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall report investigating officer of Samtanagar Police Station, Mumbai, once in a week on Saturday between 10:00 a.m. to 12:00 noon, till the filing of the charge - sheet;
- (iv) Anticipatory Bail Application No.2081 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)