

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

ANTICIPATORY BAIL APPLICATION NO. 850 OF 2018

Mohammed Sadik Abdul
Karim Motorwala & Ors.

... Applicants

Vs.

State of Maharashtra & Anr.

... Respondents

...

Mr. Ishrat Ali Khan for the applicant.

Ms. Nidhi Sharma for the intervenor.

Mrs. A.A. Takalkar, APP for the Respondent-State.

Mr. Kshirsagar, Police Inspector, Mumbra Police Station is present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 15th FEBRUARY, 2019.

P.C.

1. This is an application for anticipatory bail in C.R. No. I-95 of 2018 registered with Mumbra Police Station for the offences punishable under Sections 307, 394, 323, 507, 506(II), 504 read with 34 of Indian Penal Code.

2. Prosecution case is that the complainant/injured was in relationship with the daughter of the applicant No.1. Applicant No.2 and 3 are sons of applicant No.1. On 21st February, 2018, the accused called the complainant at about 4.10 a.m. The applicant Nos.2 and 3 had assaulted the complainant by giving

blow of wooden log on his head. Applicant No.1 was instigating the other accused to kill the complainant. Applicant No.1 had assaulted the complainant by using tile from the place of incident.

3. Learned counsel for the applicant submits that complainant had sexually abused and exploited the daughter of the applicant. False and frivolous complaint has been lodged by the complainant. The offence under Section 307 of Indian Penal Code is not attracted in the present case. Applicants have co-operated with the investigation and custodial interrogation of the applicant is not necessary. He further submitted that the daughter of the applicant No.1 has registered the First Information Report against the complainant alleging sexual abuse.

4. Learned APP and learned advocate for the intervenor submitted that specific overt act has been attributed to the applicant in the crime. Learned APP pointed out the injury certificate which indicate that the complainant had received the injuries on parietal and frontal region as well as multiple contusion. Injuries were of grievous in nature. Learned APP also pointed out that there are statement of eye witnesses who have referred to the incident and attributed the role to the applicant. It is submitted that first information report has been lodged by the

daughter of the applicant No.1. However, prior to that she has given statement. Her statement was recorded on 22nd February, 2018 wherein she has stated that she was married to the complainant.

5. I have perused the injury certificate. Specific overt act has been attributed to the applicants. There are eye witnesses to the incident. Considering the factual matrix of the case, the case for grant of anticipatory bail is not made out. Hence, application is rejected. Interim protection granted by this Court stands vacated.

(PRAKASH D. NAIK, J.)