

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICATION NO. 2842 OF 2015.

MAHENDRA UTTAM SARWADE.

VERSUS

THE STATE OF MAHARASHTRA

Appearance =>

Mr. Estling S. Murge, Advocate for the Applicant.

Mrs. Pratibha Bharad, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 24th June, 2015.

Per Court :-

Present Criminal Application is filed by the applicant for grant of anticipatory bail, since he is apprehending his arrest in connection with CR No.54/15 registered with Police Station, Osmanabad (Rural), District - Osmanabad for the offences punishable under Section/s 327, 323, 504 read with 34 of the Indian Penal Code.

[2] Heard Mr. Estling S. Murge, learned counsel for the Applicant and Mrs. Pratibha Bharad, learned Additional Public Prosecutor for the State of Maharashtra.

[3] According to the First Information Report on 27th April, 2015 when procession was going on that time, Mangesh, cousin brother of the first informant was assaulted by the present applicant and two

others by fist and kick blows and also by fighter. First Information Report further discloses that when the first informant tried to intervene, that time, he lost his gold chain.

[4] Statement of Mangesh is recorded. Though he claims that he was assaulted by fist and kick blows and also by fighter, he does not disclosed that he received any injury; nor there is injury certificate available in the investigation papers, is the statement of Mrs. Pratibha Bharad, learned Additional Public Prosecutor. Statement is accepted.

[5] In so far as offence punishable under Section 327 of the Indian Penal Code is concerned, there is clear cut absence of allegations in the First Information Report that first informant or anybody was assaulted to extort the property. On the contrary, the First Information Report shows that he lost his gold chain. In that view of the matter, the applicant's custody is not essential. Hence, I pass the following order :-

ORDER

- (i) Criminal Application is allowed.
- (ii) Interim order dated 10th June, 2015 granted by this court stands confirmed.

(V.M. DESHPANDE, J.)