

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 94 OF 2015

1) Sukhdev Vitthal Bhosale
2) Sou. Suman Sukhdev Bhosale
3) Dattatraya Mauli Salunkhe
4) Sou. Sangita Dattatraya Salunkhe
5) Sou. Bhimmaka Bhausahab Salunkhe .. Applicants

Versus

The State of Maharashtra .. Respondent

Mr. P.G. Sarda for the Applicants.
Mr. D.P. Adsule, A.P.P. for the State.

CORAM :- SMT. SADHANA S. JADHAV, J.
DATED :- 2nd MARCH 2015.

PC. :-

1) Heard. This is an application under Section 438 of Cr.P.C. On 20th January 2015, this Court had issued notice. On 2nd February 2015, the Investigating Officer was not present with the papers. Learned A.P.P. had sought time and, therefore, this Court (Coram : Smt. Sadhana S. Jadhav, J.) upon perusing the recitals of the F.I.R. had granted interim relief in favour of some of the applicants. On 10th February 2015, 24th February 2015 and 27th February 2015, this Court had adjourned the matter at the request of learned A.P.P. The case is registered for the offence punishable under Section 307 of I.P.C. and it was necessary to go through Medical Certificate of victim. Learned A.P.P. Submits that there is no co-operation from the

Investigating Officer in Crime No.199 of 2014 registered at Mangalwedha Police Station for the offences punishable under Sections 307, 326, 327, 323, 504, 506, 447, 143, 147, 148, 149 of I.P.C. Hence this Court proceeds to hear the matter finally. The Superintendent of Police (Rural), Solapur, shall take note of this fact that there is no co-operation from the Investigating Officers. The Superintendent of Police shall take necessary steps to see that the applications pending before the High Court can be disposed of at the earliest with the co-operation of the Police Officers.

2) It is the case of the prosecution that on 23rd September 2014 the complainant Smt. Mandakini Jagdale filed the complaint before the Judicial Magistrate, First Class, Mangalwedha, alleging about the incident dated 12th May 2014. According to the complainant, her son Suresh was taken on motor-cycle by original accused Nos.1 and 2 and assaulted brutally and thereafter, thrown on the road. There is no specific allegation against the present applicant. Admittedly there is a delay in filing the complaint. The learned A.P.P. has drawn the attention of this Court to the order passed by the Sessions Judge wherein it has been specifically observed that initially a complaint was lodged on 14.05.2014 in respect of the incident dated 12.05.2014 and the said complaint was registered as non-cognizable case. In view of this, it can be said that the incident has been blown out of proportion at a later stage to prosecute the applicants for offence punishable under Sections 307, 326 of I.P.C. The Applicant Nos.2, 4 and 5 happen to be women. Today,

we do not have the statement of the injured and, therefore, overt act attributed to applicant Nos.1 and 3 is not on record.

3) Hence, the applicants have made out the case for pre-arrest bail. Needless to say that the observations made herein above are prima facie in nature and are restricted to an application under Section 438 of Cr.P.C. the same shall not be considered for the purpose of quashing of F.I.R. discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicants be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- each and one or two sureties in the like amount.
- (iii) Applicants shall not tamper with evidence.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)