

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1129 OF 2015**

Jahangir Gani Patekari

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. G. K. Gole I/b Ms. Meghana Gowalani for the Applicant

Mr. Arfan Sait, A.P.P for the Respondent-State

API Mr. Y. R. Khade from Shivaji Nagar Police Station is present

CORAM : REVATI MOHITE DERE, J.

WEDNESDAY, 26TH AUGUST, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 142 of 2015 registered with the Shivaji Nagar Police Station, Ichalkaranji, Kolhapur, for the alleged offences punishable under Sections 325, 307, 324, 323, 435, 427, 452, 341, 143, 147, 149, 504, 506 of the Indian Penal Code, 1870, under Section 135 of the Bombay Police Act and under Section 3(1)(x), 3(2), (3), 6 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The incident in question has taken place on 17th July, 2015. There are cross complaints with regard to the same incident. The present applicant has lodged a complaint which was registered vide C.R No. 141 of 2015. The said complaint was registered at 3:30 p.m. It is alleged by the applicant that Mahadev Suryawanshi assaulted him with a koyta on his head and that his sons Avdhoot and Avinash assaulted him with fist and kick blows. He has stated that seeing the assault, some persons from the locality came and rescued him and took him to Sanjeevani Hospital. The said case has been registered as against Mahadev Suryawanshi and his two sons Avdhoot and Avinash. With respect to the same incident, Mahadev Suryawanshi had also lodged an FIR with the Shivaji Nagar Police Station. The said FIR was lodged at around 6:30 p.m. The offences alleged are under Sections 325, 324, 323, 435, 427, 452, 341, 143, 147, 149, 504, 506 of the Indian Penal Code and under Section 135 of the Bombay Police Act and under Section 3(1)(x), 3(2), (3), 6 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. According to Mahadev i.e. the complainant when he was near Shahu Maharaj Chowk, the present applicant came along with seven other persons (some named

and some unknown persons) and assaulted him with fist and kick blows. It is alleged that some of the persons pelted stones on him. As a result of which, he sustained an injury on his head and his son Avinash sustained a fracture. He has alleged that his other son Avdhoot was also assaulted by fist and kick blows. Learned Counsel for the applicant states that the applicant had sustained an injury on his head. He submitted that the complaint lodged by the present complainant was first in point of time. Even otherwise, he submitted that a perusal of the FIR/complaint lodged by Mahadev does not show that the present applicant caused the injury to Mahadev on his head. Learned A.P.P opposed the bail application.

4. Perused the papers, in particular, the FIR lodged in both cases and the injury certificates of the applicant in C.R No. 141 of 2015 and the injury certificates of Mahadev, Avdhoot and Avinash in C. R. No. 142 of 2015. The injury certificate *prima facie* corroborates the complaint lodged by the complainant inasmuch as there is an incised wound caused to him on the left parietal region. As far as the role of the present applicant in C.R. No. 142 of 2015 is concerned, the applicant is not alleged to have pelted a stone as a result of which, Mahadev suffered an injury on his head. No

doubt, it appears that Mahadev suffered a grievous injury on his head, no specific role is attributed to any person in the said complaint.

5. Considering the nature of allegations, the applicant is granted pre-arrest bail on the following terms and conditions :

ORDER

(i) In the event of the arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount ;

(ii) The applicant shall attend the concerned Police Station as and when called for;

(iii) The applicant shall cooperate with the investigating agency and shall not tamper or attempt to influence the witnesses or any person concerned with the case.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

7. It is made clear that the observations made herein are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.
8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.