

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE – CRIMINAL
ANTICIPATORY BAIL APPLICATION NO.147 OF 2015

Shankar Hanumanta Santi Applicant
Vs.
State of Maharashtra Respondent

Mr. Jitendra M. Pathade for the Applicant.
Mr. Y.M. Nakhwa, APP, for the Respondent-
State.

CORAM: P.D. KODE, J.

DATED: FEBRUARY 11, 2015

P.C:

1. For the detailed reasons recorded in the order dated 3-2-2015, interim direction in terms of Section 438 of Cr.P.C. has been passed in favour of the applicant. The prosecution has filed a detailed reply in pursuance to notice of the application served upon it. A perusal of the reply does not reveal any cogent reason or ground repelling the reasons for which the

interim order was passed. Learned APP has tried to oppose the application by submitting that effect of the act committed by the applicant is reflected from the medical certificate of the victim which, amongst others, reveals the victim having suffered a fracture. It is thus submitted that considering the act committed by the applicant, his prayer for pre-arrest bail may not be accepted.

2. The learned counsel for the applicant has rightly refuted the said submission by submitting that the bamboo allegedly used by the applicant cannot be categorised as a dangerous weapon. It is submitted that even accepting the prosecution's allegation as it is, the offence may not transcend beyond offence under Section 325 of the IPC. In the said premises, and particularly the test for accepting the request for pre-arrest bail being

altogether different, i.e. whether custodial interrogation of the applicant is necessary for completion of the investigation and/or the facts and circumstances related with the crime are of such a nature for not extending the benefit of pre-arrest bail and applying said test, as has been set out in the case of **Siddharam Satlingappa Mhetre v. State of Maharashtra and others**, reported in (2011) 1 SCC 694, it is difficult to negative the prayer for pre-arrest bail.

3. Resultantly, the application is allowed. The interim direction give vide order dated 3-2-2015 is hereby confirmed on earlier terms and conditions. However, the applicant shall now attend the I.O. on every Monday in between 11:00 a.m. to 1:00 p.m. for a period of one month and thereafter only on the first Monday of the month until filing of charge-

sjs

7-ABA-147.2015

sheet. The application accordingly stands
disposed of.

(P.D. KODE, J.)