

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.447 OF 2015

Mahendra Nanasaheb Jagtap

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.S.S. Kulkarni i/b D.J. Jadhav for the Applicant

Ms.Veera Shinde, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 30, 2015**

P.C.:

1. This is an application for pre-arrest bail. The applicant/accused, alongwith one more accused, is facing charges under sections 307, 341, r/w 34 of the Indian Penal Code. The offence is registered by Hanumant Sambhaji Jadhav at C.R.No.16 of 2015 with the Bhigwan police station, Pune. It is the case of the prosecution that on 12.2.2015 at around 10pm, the complainant and the applicant/accused and the co-accused were dancing in the marriage celebrations of their friend, there were some verbal quarrel between the co-accused and the complainant. Thereafter, the complainant and the applicant/accused and the co-accused left the place. Then, the complainant proceeded on his motor cycle to his destination. At that time, near a junction, the applicant/accused and the co-accused stopped him. They were in a xylo vehicle. The applicant was

armed with sword and they assaulted the complainant, who sustained two simple and one grievous injuries. Hence, this application for pre-arrest bail.

2. The learned Counsel for the applicant/accused has submitted that the complainant Hanumant has filed an affidavit on 4.3.2015 before the Sessions Court that he gave the information to the police due to a misunderstanding and there is no dispute between him and the applicant/accused and the co-accused. The learned Counsel submitted that considering the nature of the injuries, the case does not fall under section 307 of the Indian Penal Code but it is of a lesser degree and, therefore, it is compoundable and the applicant is to be considered for pre-arrest bail.

3. Learned Prosecutor while opposing the bail, relied on the injury certificate and also produced the report disclosing the antecedents of the applicant/accused.

4. Perused the FIR and the injury certificate. There are 2 simple injuries and one grievous injury. A fracture of the hand was caused due to the injury. The report discloses that two cases, viz., C.R. Nos.1 of 2014 and 2 of 2014 which were registered against the applicant/accused under

section 324 of the Indian Penal Code. Considering this, though the affidavit is filed by the applicant/accused, as submitted by the learned Counsel that they want to interrogate the applicant and they want to recover the weapon from him, his custody is required.

5. In view of this, I am not inclined to grant pre-arrest bail. Hence, the Anticipatory Bail Application is rejected.

6. The learned Counsel for the applicant/accused seeks a stay of the order and the applicant/accused be granted interim bail to approach the Supreme Court. This prayer would have been allowed, if the applicant/accused would have been on interim protection throughout from 18.2.2015 till today. However, he was not protected by any interim bail even by the Sessions Court. Hence, the oral prayer for stay is rejected.

(MRS.MRIDULA BHATKAR, J.)