

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 467 OF 2015

1. Pradeep Premchandra ShuklaApplicants
2. Manoj Baijnath Giri

V/s.

The State of MaharashtraRespondent

Mr. Jacob David Manoharan for Applicant
Mr. Y. M. Nakhwa APP for the State.
Mr. K. V. Galande, P.S.I. Park Site Police Station, Vikhroli.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 16th JUNE 2015

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicants herein are apprehending their arrest in crime no. 95 of 2015 registered at Park Site Police Station, Vikhroli for offence punishable under sections 326, 324, 504 r/w 34 of Indian Penal Code.

2) It is the case of prosecution that on 27/02/2015 Liyaj Nadaf lodged a report at the police station that on 21/02/2015 at about 10.30 p.m., Pradeep Singh was urinating in the open space in front of his house. He objected to the same. At that time, there was initially verbal altercation between both of them. AT about 11.00 p.m. Pradeep Singh returned to the same place along with

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Munna Giri, Manoj Giri and others. They started abusing the complainant. One of them had slapped complainant and thereafter, there was an altercation between the complainant and the group. It is alleged that It is alleged that Manoj Giri had assaulted complainant on his back with an iron road and Pradeep Singh had assaulted him by paver block on his back. Complainant has admitted that since he was suffering from pain, he has consumed narcotic drug. At that time, police arrived at the spot. They found him consuming narcotic drug and had taken him to the police station. The case was registered against the complainant under N.D.P.S. Act. On 22/02/2015, he was presented before Magistrate at Vikhroli and was enlarged on bail. He had taken treatment in Sion Hospital. According to him, he had sustained fracture. On the basis of his report, offence was registered against accused.

3) Learned counsel for the applicants submits that in fact, report was lodged at the police station on the same day and non cognizable case was registered. Report was lodged by Rajkumar Giri. That another N.C. report was lodged against the complainant on 24/02/2015 in respect of the incident which occurred on 24/02/2015 and subsequently complainant has lodged a report on 27/02/2015. There is no plausible explanation for the inordinate

delay.

4) Learned APP submits that in fact complainant was taking treatment and therefore, there was a delay in lodging F.I.R.

5) Perused medical case papers. It is true that some altercation had taken place between complainant and Munna Giri and one Pradeep Singh, however, it is submitted by the learned counsel for the applicant that present applicant happens to be Pradeep Shukla and not Pradeep Singh.

6) As against this, learned APP submits that supplementary statement of the complainant was recorded on 04/04/2015 wherein he has stated that assailant was not Pradeep Singh but Pradeep Shukla.

7) Be that as it may, taking into consideration the facts of the case and the submissions advanced across the bar, applicants deserve grant of pre-arrest bail.

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 report to concerned police station on 22/06/2015, 23/06/2015 & 24/06/2015 between 10.00 a.m. to 01.00 p.m. and co-operate with the investigating agency to the best of their capacity.

(iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)