

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.637 OF 2015

Dasharath Padu Waghmare .Applicant

v/s.

The State of Maharashtra .Respondent

WITH

**CRIMINAL APPLICATION NO.677 OF 2015
(For Intervention)**

IN

ANTICIPATORY BAIL APPLICATION NO.637 OF 2015

Jagdish Lahu Waghmare .Intervener

IN THE MATTER BETWEEN

Dasharath Padu Waghmare .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.Gaurav Parkar, Advocate, for the Applicant
Mr.Arfa Sait, APP, for the Respondent – State
Mr.Vagish Mishra i/b. Mr.Rahul Sharma, Advocate,
for the Intervener in Cri.Appln.No.677 of 2015

CORAM : REVATI MOHITE DERE, J.

DATE : 19.08.2015

P.C.

. Heard learned counsel for the applicant, learned APP for the respondent – State and the learned counsel for the intervener.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R.No.35 of 2015 registered with the Khandeshwar Police Station, for the alleged offences punishable under Sections 395, 326, 143, 144, 147, 148, 504 and 506 of the Indian Penal Code, 1870 and under Section 37(1) read with 135 of the Bombay Police Act.

3. According to the prosecution, the incident in question took place on 13.03.2015 at about 9.30 p.m.. It is alleged in the complaint, lodged by one Jagdish Lahu Waghmare that the present applicant along with nine others came

and started abusing the complainant. It is alleged that when the complainant questioned the accused, co-accused Nilesh Waghmare assaulted the complainant with an iron pipe. Nilesh Waghmare is alleged to have assaulted the complainant with an iron pipe on his head and Sanjay Waghmare is alleged to have assaulted with a wooden log and Sandeep Waghmare with an iron pipe. It is alleged that all the other accused gave fist blows. It is alleged that during the said assault, co-accused Sanjay Waghmare took the Gold chain which was worn by the complainant. It is further alleged that when the complainant's wife came to the spot, all the accused including the applicant assaulted her by fist blows.

4. Learned counsel for the applicant submitted that the applicant is 65 years of age and there is no other overt act alleged as

against him. He further submitted that all the accused have either been released on regular bail or have been granted pre-arrest bail in the said case.

5. Learned counsel for the intervener submitted that although, there is no specific allegation/overt act alleged as against the present applicant, the applicant's name finds place in the FIR, wherein it is stated that all the accused including the applicant assaulted the complainant and his wife with fist blows. He submitted that in the said assault, the complainant and his wife lost their teeth.

6. Perused the papers including the Injury Certificates. It appears that there is a cross case filed by the son of the present applicant as against the complainant and others which is registered vide C.R.No.34 of 2005 also with the

Khandeshwar Police Station, alleging similar offences. It appears prima facie that there is political rivalry between the parties, who are related to each other. No overt act is alleged as against the applicant, although present on the spot. The only allegation against the applicant is that he was present and that he removed Rs.5,000/- from the complainant's pocket.

7. In the peculiar facts and circumstances, considering the role of the applicant and his age, the applicant is granted pre-arrest bail on the following terms and conditions:

(i) In the event of arrest, the applicant be enlarged on bail on furnishing P.R.Bond in the sum of Rs.10,000/- with one or two solvent sureties in the like amount;

(ii) The applicant shall attend Khandeshwar Police Station on every Saturday between 10.00 a.m. to 11.00 a.m. till filing of the charge sheet;

(iii) The applicant shall not tamper or attempt to contact the complainant or any witness concerned with the said case;

(iv) The applicant shall co-operate with the Investigating agency.

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

9. In view of disposal of the Application, the Intervention Application does not survive and the same stands disposed of accordingly.

10. 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)