

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1038 OF 2015

1 Santosh Raghunath Shinde.
2 Raju Sahebrao Kamble. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

Mr. Ujjwal Gandhi i/b. Ms. Neetu R. Mishra, advocate for Applicants.

Mr. S. C. Pal, advocate for complainant.

Ms. P.P. Shinde, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 11, 2015

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State. Perused the papers.

2 This is an application under Section 438 of the Code of Criminal
Procedure, 1973. The applicants herein are apprehending their
arrest in Crime No. 177 of 2015 registered at R.C.F. Police Station for
offence punishable under Section 385, 143, 144, 145, 148, 149, 323,
326, 427, 452, 506, 504 of the Indian Penal Code.

3 It is the case of the prosecution that the wife of the applicant No.2 had been to shop of the present complainant for purchasing grains since he is running a shop. There was a verbal altercation between the complainant and the wife of the present applicant No. 2, in as much the complainant was humiliating the wife of the applicant No. 2. The complainant had attempted to outrage the modesty of the wife of the applicant No. 2. The women standing in the queue had got enraged and had assaulted the complainant and caused damage to the shop. On the basis of her report Crime No. 176 of 2015 was registered at R.C.F. Police Station on 5/7/2015 at about 2.30 p.m. i.e. in the afternoon.

4 On the same day, the complainant Jayprakash Babulal Agrawal lodged a report at the same police alleging therein that on 5/7/2015 when he was in his shop, which is in the name of his mother, at about 11.30 a.m. when he was working in the office of the shop, wife of the applicant No. 2 had come. The complainant had enquired with her whether she had filled in the form. She had retaliated. There was a

verbal altercation. At that time, he was abused and the complainant was assaulted by the present applicants. That the complainant had sustained blunt trauma and was admitted in the hospital.

5 The learned Counsel for the applicants submits that the registration of crime No. 177 of 2015 is only in retaliation of registration of Crime No. 176 of 2015. That the complainant had misbehaved with the wife of the applicant No.2. Thereafter, he has concocted the story to save himself from the allegations levelled against him under Section 354 of the Indian Penal Code.

6 Be that as it may, the applicants donot have any criminal antecedents. It appears that the incident has occurred at the spur of the moment. There was no premeditation, nor there is any previous enmity between the applicants and the complainant. In view of this, the applicants deserve grant of pre-arrest bail.

7 It is made clear that the observations are restricted to an application under Section 438 of Code of Criminal Procedure, 1973

only to ascertain as to whether further incarceration is warranted and the same shall not be considered for the purpose of quashing of FIR or discharge application or at the time of trial. The Trial Court shall decide the matter on its own merits uninfluenced by the above observations.

8 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicants be released 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) The applicants shall report to the concerned police station on every Sunday between 10 a.m. to 1 p.m. till filing of the charge-sheet.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)