

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1342 OF 2015

Vinayak Vijaysingh Chauhan

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr.Prakash Naik i/b. Mr.Ganesh Bhujbal for Applicant.

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

API Sachin Suryavanshi for Dindoshi Police Station.

CORAM: A.S. GADKARI, J.

DATE : 17th December 2015.

P.C.

1. The applicant is apprehending arrest in C.R.No. 359 of 2015 registered with Dindoshi Police station under sections 143, 144, 146, 147, 148, 149, 323, 326, 504, 506(2) of the Indian Penal Code read with Section 3(1)(iv),(v),(x) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 r/w. 37(1), 135 of the Bombay Police Act r/w Section 4(ii)(vii) of the Protection of Civil Rights Act, 1955.

2. The complainant Mr Arjun Malji Vaijal has filed FIR dated 29th June, 2015 *inter alia*, specifically making an allegation against the applicant that the applicant along with other persons came to his property, abused him on his caste, thereafter applicant took out a chopper assaulted with it on his head and also gave a blow of the said chopper to the son of the said applicant.

3. During the course of investigation, the police received medical certificate of son of complainant namely Mr Machindra Arjun Vaijal, the said certificate specifically mentions that there are no external injuries. As far as other columns of the certificate are concerned the same are blank. The said certificate dated 29th June, 2015 issued by the Medical Officer of Bhagwati Hospital, Borivali.

4. The applicant herein has lodged a cross complaint against complainant bearing C.R. No. 395 of 2015 stating that on the date of the incident on 29th June, 2015 the applicant and his other assistants were mercilessly beaten by the complainant herein and applicant was hospitalised.

5. After taking into consideration the contents of the FIR which are not corroborated by the medical evidence, it appears that the complainant namely Mr.Arjun Malji Vaijal narrated an exaggerated version of the incident to the police. *Prima facie* it appears that the exact abuses given to the said complainant are not mentioned in the FIR and whatever statement alleged to have been made by the applicant against the complainant in the FIR dated 29th June, 2015, x do not attract the provisions of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989

6. In view of the above the applicant has made out a case for grant of pre-arrest bail. The interim protection granted to the applicant by order dated 10th September, 2015 is hereby confirmed with modification that

the applicant shall attend the concerned police station as and when called for between 10.00 am to 12.00 noon. It is needless to mention that before calling the applicant for the purpose of investigation, the Investigation Officer shall issue notice in writing as contemplated under section 160 of Cr.PC.

7. The application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)