

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.567 OF 2016**

Satish s/o Govind Khade

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr P.D. Suryawanshi , Advocate for applicant;

Mr S.M. Ganachari, Addl. Public Prosecutor for respondent

**CORAM : N.W. SAMBRE, J.**

**DATE : 12th February, 2016**

**ORDER :**

By the present application under section 438 of the Code of Criminal Procedure, the applicant seeks his release on pre-arrest bail, in connection with C.R. No.56 of 2015, registered with police station, Sirsala, Tq. Majalgaon, Dist. Beed, for offences punishable under sections 452, 324, 323, 326, 504, 506 read with section 34 of the Indian Penal Code.

2. The prosecution story is that the applicant has assaulted the complainant in the background of dispute in relation to immovable property, resulting into causing grievous hurt to the complainant.

3. Learned Counsel appearing on behalf of the applicant, while trying to make out a case for grant of bail, would urge that admittedly there exists

(2)

a civil dispute between the family of the applicant and the complainant and Regular Civil Suit No.231 of 2015 filed by the father of the present applicant is pending, in which an order of ad interim injunction is operating against the complainant. He would then urge that the complainant also assaulted the father of the present applicant, resulting into registration of separate crime bearing C.R. No.55 of 2015.

4. According to him, the complaint filed by the applicant is prior in point of time. In the above background, the learned Counsel prayed to grant pre-arrest bail to the applicant.

5. Learned Addl. Public Prosecutor opposed the application on the ground that there are eye-witnesses to the incident and the complainant has suffered grievous injury. He would submit that having regard to the nature of allegations in the first information report, custodial interrogation of the applicant for recovery of the weapon used in commission of the offence is necessary. Thus, he prayed to reject the application.

6. It is, no doubt, true that there are counter offences vide C.R. Nos.55 of 2015 and 56 of 2015 against the complainant and the applicant, respectively.

7. It is also not in dispute that the civil court has ordered ad interim injunction on 7<sup>th</sup> November, 2015 in favour of the present applicant.

(3)

8. It appears that the crime in question took place in the background of the civil dispute in relation to the immovable property. As such, in my opinion, custodial interrogation of the applicant is not necessary.

9. In that view of the matter, the applicant is entitled to be released on pre-arrest bail. Thus, the following order :-

In the event of arrest of the applicant, in connection with C.R. No.56 of 2015, registered with police station, Sirsala, Tq. Majalgaon, Dist. Beed, for offences punishable under sections 452, 324, 323, 326, 504, 506 read with section 34 of the Indian Penal Code, he be released on bail, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicant shall attend the concerned police station initially on 22<sup>nd</sup> and 23<sup>rd</sup> February, 2016, between 10.00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.

Till filing of the charge-sheet, the applicant shall keep himself away from the jurisdiction of the concerned police station.

Criminal Application stands allowed in above terms.

**(N.W. SAMBRE, J.)**

amj