

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 668 OF 2016

Sachin Sarvesh Narayan Pandey
and anr.

.....Applicants

V/s.

The State of Maharashtra

.....Respondent

* * * * *

Mr. S.U. Marwadi i/by. Mr. N.D. Shrivastava, Advocate for the
applicant.

Ms. Sharmila Kaushik, APP for the respondent, State.

API, Mr. D.B. Kawale, Dindoshi Police Station present.

CORAM :- N.W. SAMBRE, J.

DATED :- 21st NOVEMBER, 2016.

P.C. :-

1). The applicant is seeking pre-arrest bail in Crime No. 188 of 2016 for the offences punishable under Sections 363, 511, 324, 323, 504, 506 (II), 427, 143, 144, 146, 147, 148, 149 Indian Penal Code.

2). The prosecution story appears to be that, applicant no.1, Sachin had attributed "Bhagoda" to the complainant on What's APP Group which had resulted into differences between the complainant

and applicant no.1. The complainant, as such, lodged a complaint against applicant no.1 with the office bearers of BJP Yuva Morcha. Being infuriated by the said act of the complainant, applicant no.1 accompanied by applicant no.2 and other persons armed with a deadly weapon called the complainant at Oberoi Mall and assaulted the complainant and his accomplice, Prakash resulting into registration of the crime in question.

3). Mr. Marwadi, the learned Counsel for the applicant would urge that both the applicants are entitled for bail, much less, applicant no.1. According to the injuries mentioned in the FIR which co-relate to the injury certificate, the complainant has suffered simple injury. According to him, an offence under Section 323 Indian Penal Code is bailable. In addition, he would urge that, there is a mismatch about the injury mentioned in the injury certificate with that of the injury in the FIR. He would then urge that, custodial interrogation is not necessary as the applicant is available for investigation and prosecution.

4). Perused the case diary and other material available on record. Pursuant to the contents of the FIR, the Investigation Officer has invoked the provisions of Section 34 read with Section 149 Indian Penal Code alongwith other sections which speaks of common intention of the applicants to commit the crime in question. The background of leaving the Whats APP Group, applicant no.1 in a calculated manner alongwith other friends armed with weapon has assaulted the complainant and his

accomplice, Prakash with rod and deadly weapon i.e. knife.

5). The said act has resulted into disturbance of public order as the incident took place in public view.

6). There is sufficient material available on record against both the applicants. Hence, no case is made out. The application is rejected.

7). The observations made herein are prima-facie and the trial Court shall not get influenced by the observations made herein.

8). Mr. Marwadi, at this stage, upon instructions gives an Undertaking that both the applicants shall surrender to the police on 28th November, 2016 and as such ad-interim protection be continued in favour of applicant no.1. The Undertaking is accepted. The ad-interim protection is extended only upto 27th November, 2016.

(N.W. SAMBRE, J)