

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

ANTICIPATORY BAIL APPLICATION NO.866 OF 2016

Asif Dargahi Shaikh & Ors. ..Applicants
V/s.
The State of Maharashtra .. Respondent

Mr.Amin Solkar for the Applicants.
Mr.H.J.Dedia APP for Respondent-State.

**CORAM : A. S. GADKARI, J.
(VACATION COURT)**

DATE : 16TH MAY 2016

P.C.

1. The applicants are apprehending arrest in C.R.No.222 of 2016 registered with Oshwira Police Station, Mumbai for the offences punishable under sections 323, 352 and 509 read with section 34 of the Indian Penal Code and under sections 8 and 10 of the Protection of Children From Sexual Offences Act, 2012.

2. Heard learned counsel for the applicants and learned APP for the State. I have also perused case papers and other record pertaining to the present crime produced by the

concerned Police Officer.

3. The First Information Report is lodged by Ms.Amina Dargahi Shaikh on 23-04-2016, stating that the applicant Nos.1 and 3 herein are her step brother and sister and the applicant no.2 is her step-mother. That after the death of her father, namely Dargahi Shaikh, disputes pertaining to inheritance of the property arose between family of the two wives of Dargahi Shaikh. The applicant Nos.1 and 3 are the children of applicant no.2 from the wedlock of Dargahi Shaikh. The informant has further stated that on 24-04-2016, at about 00.30 a.m. after knocking of the door of the flat, the applicants forcibly entered into the said premises. Applicant no.1 thereafter pulled the dupatta of the complainant, and allegedly committed an offence as contemplated under section 354 of the Indian Penal Code. On the basis of the First Information Report, the aforesaid crime has been registered by the Police.

4. It is to be noted here that the applicant nos.1 and 3 are step brother and sister of the informant. That the applicant

no.2 is step-mother of the informant. It further appears to me that the statement given by the complainant prima-facie appears to be an exaggerated version. The said inference is drawn on the basis of the relations of the parties inter-se as has been stated above. The learned counsel for the applicant submitted that a bare perusal of the statement of informant makes it clear, that at the most, some incident of scuffle had occurred, however, certainly, the said incident would not fall within the purview of section 354 of the Indian Penal Code. I find substance in the said submission. After taking into consideration the relations between the applicants and the informant and the submissions made by the learned counsel for the applicants. I am inclined to grant pre arrest bail to the applicants. Hence, the following order.

ORDER

- (i) In the event of arrest of the applicants in C.R.No.222 of 2016, registered with Oshwira Police Station, Mumbai the applicants be released on bail on their furnishing PR Bond in the sum of Rs.15,000/- each with one or two separate local

sureties in the like amount.

(ii) The applicant no.1 shall appear before the Investigating Officer on 20th May 2016, 23rd May 2016 and 24th May 2016 between 11.00 a.m. to 2.00 p.m. and shall co-operate in the process of investigation.

(iii) In the event the Investigating Officer intends to call applicant nos.2 and 3 for the purpose of investigation, he shall issue a notice under section 160 of Cr.P.C.. Needless to mention that the Investigating Officer shall adhere to the provisions of Cr.P.C. with respect to applicant nos.2 and 3.

(iv) The applicant no.1 thereafter will attend the Investigating Officer as and when called for, between 11.00 a.m. to 1.00 p.m. It is needless to mention that the Investigating Officer shall issue notice under section 160 of Cr.P.C. before calling the applicant no.1 to the police station.

(v) The applicants shall not tamper with the evidence and/or influence the prosecution

witnesses.

(vi) Application is allowed in the aforesaid terms.

5) All parties to act on an authenticated copy of this order.

(A.S. GADKARI, J.)