

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1132 OF 2016

Kiran Babaji Batwal. ... Applicant.
Versus
The State of Maharashtra. ... Respondents.

Mr. D.G. Khamkar, advocate for Applicant.

Ms. Veera Shinde, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 25, 2016**

P.C.:

1 Heard the learned Counsel for the applicant 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 applicant herein is apprehending his arrest in Crime No. 24 of 2016 registered at Otur Police Station for offence punishable under Section 307 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that the applicant is residing alongwith his parents, wife and children. That there was partition of inherited property between the father of the applicant and his 3 brothers. The suit was compromised by consent decree. However, the paternal uncle of the applicant had started harassing the applicant and his family members on various counts and therefore, they had left the village and were residing at Sangamner. After they returned, they had seen that their landed property was being cultivated by paternal uncle of the applicant. It is alleged that on 27/1/2016, there was a dispute between both the families. The dispute had taken an ugly turn and was converted into a physical altercation between both the families. The father of applicant had sustained injuries in the said altercation in the form of multiple lacerated wounds. That the members of the family of the complainant had also sustained grievous injuries. Wife of the present applicant had lodged a report against the other relatives which was registered under Section 324 of the Indian Penal Code. However, as far as the case against the applicant is concerned, is registered under Section 307 of the Indian Penal Code.

4 Perused the medical papers. Prima facie it appears that the dispute was between the family members. It cannot be said that it was a premeditated attempt. It appears that the injuries are sustained in an altercation between both the sides. Taking into consideration the nature of allegations, papers of investigation and submissions advanced across the bar, the applicant deserves to be enlarged on bail.

5 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of hearing of application for discharge or quashing of FIR or at the time of trial.

6 Hence following order is passed :

ORDER

(i) In the event of arrest in Crime No. 24/2016, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- and one or two sureties in the like amount.

(ii) The applicant shall report to the police station as and when called.

7 The application is disposed of.

(SMT. SADHANA S. JADHAV,J)