

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1254 OF 2016

1 Dyneshwar Nivrutti Gaikar
2 Ishwar Tukaram Gaikar
3 Sharad Bhau Gaikar
4 Kiran Natha Gaikar
5 Balasaheb N. Gaikar
6 Sunil Haribhau Gaikar
7 Yogesh Kundalik Gaikar
8 Sachin Haribhau Gaikar
9 Satish Bhau Gaikar
10 Shriram B. Gaikar
11 Hari Balasaheb Gaikar
12 Shantaram D. Gaikar
13 Chandrakant D. Gaikar
14 Jalinder D. Gaikar
15 Natha D. Gaikar
16 Balasaheb N. Gaikar
17 Shyam C. Gaikar
18 Sudhir S. Gaikar
19 Sainath S. Gaikar.

... Applicants.

Versus

The State of Maharashtra.

... Respondent.

Mr. Satyam H. Nimbalkar a/w. Mr. Hrishi D. Ghorpade a/w.
Hrishikesh Kamble, advocate for Applicants.

Mr. S.S. Pednekar, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 19, 2016**

P.C.:

1 Heard the learned Counsel for the applicants and the learned APP for State.

2 This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicants herein are apprehending their arrest in Crime No. 142 of 2016 registered at Otur Police Station, Pune for the offence punishable under Sections 324, 323, 427, 506, 143, 144, 147, 148, 149 of the Indian Penal Code.

3 It is the case of the prosecution that on 27/6/2016 one Ashok Doke lodged a report at Otur Police Station alleging therein that on 25/6/2016 he was in his agricultural land bearing Gat No. 115 admeasuring about 9 gunthas. He was engaged in the agricultural operation. At that time, present applicants and others appeared in the agricultural land. They were armed with deadly weapons like iron rods, sticks etc., and they had mounted assault upon the complainant and his family members and in the course of altercation, they had also

abused the complainant and his family members by referring to their caste, as they belonged to scheduled tribe. On the basis of this report, Crime was also registered for offence punishable under Section 3, 1(10) of the Schedule Caste and the Schedule Tribe (Prevention of Atrocities) Act, 1989.

4 It appears from the papers of investigation that the complainant and his family members have sustained blunt traumatic injuries on non-vital parts. Injuries are simple in nature. The applicants therefore, deserve to be protected by this Court.

5 The learned APP vehemently submits that by the embargo of Section 18 of the said Act, the applicant would not be entitled to grant of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973.

6 The learned Counsel for the applicant submits that this is an abuse of the provision of Statute. It has to be applied in the facts of

each case. In the present case, there were civil disputes between the parties. There was an altercation between the parties. It is in view of this, the embargo of Section 18 would not apply to the facts of this case. Hence, the application deserves to be allowed.

7 However, it is made clear that the observations made hereinabove are prima facie in nature and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial. The learned trial Court shall decide the matter on its own merits. These observations are restricted to an application under Section 438 of the Code of Criminal Procedure, 1973.

8 Hence, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 142/2016, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each and one or two sureties in the like amount.

(iii) The applicants shall report to the concerned police station and cooperate with the investigating agency, upon being summoned by the Investigating Officer by issuing notice under Section 160 of the Code of Criminal Procedure, 1973.

(iv) The applicants shall not tamper with the evidence.

(v) The applicants shall furnish their residential addresses as well as contact numbers such as landline number, cell phone number etc. to the concerned Investigating Officer.

9 The Application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)