

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1430 OF 2016

P.C.:

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. 334 of 2016 registered at Vijapur Naka Police Station,

Solapur for the offence punishable under Section 324, 327, 323, 504, 506 read with Section 34 of the Indian Penal Code.

3 It appears from the record that the present applicant is the complainant in Crime No. 328 of 2016 registered at Vijapur Naka Police Station on 12/7/2016. That subsequently as counter-blast to the registration of the said FIR, Crime No. 334 of 2016 is registered at the behest of one Shrirang Pandurang Sadaphule who is an accused in Crime No. 328 of 2016. It is the allegation that the present applicant had obstructed him at Vijapur Road and had assaulted him with stone. The complainant had fallen on the ground and thereafter, one of the co-accused had instigated the applicant to assault Shrirang Sadaphule. It is also alleged that in the said altercation, mobile handset of the complainant was stolen by the present applicant when it had fallen down.

4 It is pertinent to note that prima facie it is clear that the applicant was not armed with any weapon at the time of the incident.

The incident had taken place on the road when they had come across each other and there was no pre-meditation. Moreover, the applicant is being prosecuted for offence punishable under Section 324, 327 of the Indian Penal Code. The papers of investigation do not contain injury certificate of the complainant.

5 The learned APP on the basis of the instructions submits that the Investigating Officer has filed an application seeking injury certificate to the Civil Hospital. However, he has not yet received the injury certificate. The learned APP also submits that the applicant and complainant were taken to Civil Hospital, Solapur.

6 It further appears from the record that on 12/7/2016 Shrirang Sadaphule, complainant had been to the police station and had gone to the hospital with police requisition letter. The requisition letter shows that the complainant had sustained traumatic injuries to his head, hands and legs. There were no serious injuries. The injuries

were in the form contusion. In view of this, the applicant deserves pre-arrest bail.

7 The Superintendent of Police, Solapur(City) shall see to it that the injury certificates in such cases should be obtained immediately. The hospital Authorities also be requested by the Superintendent of Police that on an application by the Investigating Officer, certificates be issued at the earliest.

8 The applicant deserves pre-arrest bail. 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.

9 Hence, following order is passed.

ORDER

- (i) In the event of arrest in Crime No. 334/2016, 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 concerned police station on every Sunday between 10 a.m. 12 noon till filing of the charge-sheet.
- (iii) The applicant shall not tamper with the evidence.
- (iv) The applicant shall furnish his residential address as well as contact number such as landline number, cell phone number etc. to the concerned Investigating Officer.

10 The Application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)