

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1458 OF 2016

Nana @ Nanaji Pandurang Galande

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Aniket Nikam i/b Mr. Aashish Satpute Advocate for Applicant.

Mr. S. H. Yadav APP for the State.

Mr. S. R. Dabade, P.S.I. Karmala Police Station,
Solapur (Gramin)

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : SEPTEMBER 21, 2016.

PC :

1) Heard. This is an application under section 438 of the Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 248 of 2016 registered at Karmala police station for offence punishable under sections 307, 504 & 506 r/w 34 of the Indian Penal Code.

2) It is the case of the prosecution that on 06/06/2016, complainant Sunil Mote had been to the agricultural land of one Mr. Bhoite to start the electric motor for supply of water to his agricultural land. Applicant had seen the complainant and had questioned as to why he had started the motor. There

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was an altercation between the complainant and the applicant and in the said altercation applicant is alleged to have assaulted the complainant with an iron rod. It is alleged that complainant had sustained bleeding injuries. He had raised hue and cry. One Santosh Giramkar & Shankar Padole and others rescued the complainant. They had taken him to Doshi hospital in a Bollero jeep owned by Mahesh Shelke. Statement of the injured was recorded on 12/06/2016 and on the basis of the said statement, offence is registered against the present applicant under section 307 of the Indian Penal Code.

3) The learned counsel for the applicant submits that applicant also is the owner of a portion of the land Gat No. 92 which is divided into several parts. The learned APP also admits the same. According to the learned APP, a portion of the said land has also been acquired by the Land Acquisition Officer for the purpose of project of Ujani Dam.

4) The learned counsel for the applicant rightly submits that the incident is dated 06/06/2016. There were eye witnesses to the incident who had taken injured to the hospital. It is not the case of the prosecution that injured was unconscious. Statement of the injured was recorded on 12/06/2016 and on the basis of the said statement, offence was registered. There is no plausible

explanation for the inordinate delay in lodging the F.I.R. the family members of the complainant were also aware of the incident. Statements of all witnesses are recorded after 12/06/2016. Injury certificate issued by Dr. Doshi shows the date of admission as 06/06/2016. There were abrasions on both hands. C.L.W. beneath right knee, elbow and one C.L.W. over the parietal area and a displaced fracture of middle half of right ulna. Complainant was then taken to hospital at Indapur which shows that complainant was admitted as an indoor patient on 14/06/2016 and was discharged on 23/06/2016. Complainant was purportedly operated for fracture of ulna on 15/06/2016.

5) The learned counsel for the applicant submits that *prima facie*, at the most it can be said that offence committed by the applicant would be under section 326 of the Indian Penal Code. It is also submitted that incident had occurred on the spur of the moment in a sudden quarrel and was not a pre-meditated act on the part of the applicant.

6) Taking into consideration the papers of investigation and the submissions advanced across the bar, applicant deserves to be granted pre-arrest bail. However, it is made clear that observations made herein above are *prima facie* in nature and shall not be considered for quashing of F.I.R.,

discharge application or at the time of trial.

7) The learned APP submits that a non-cognizable case is also registered against the applicant for having threatened the complainant.

8) Applicant shall not indulge into similar acts. Complainant shall also not take advantage of this observation.

ORDER

(i) Application is allowed.

(ii) In the event of arrest, applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.

(iii) Applicant shall report to the concerned police station on 30/09/2016 and 01/10/2016 between 10.00 a.m. to 12.00 noon and co-operate with the investigating agency to the best of his capacity.

(iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)