

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1466 OF 2016

P.C.:

2 The applicant herein is apprehending his arrest in Crime No. 110 of 2016 registered at Narayangav Police Station, Pune for the offence punishable under Section 304 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that Vandana, who happens to be the cousin sister of the present applicant lodged the report at the police station alleging therein that there was civil dispute between her uncle and her father. It is alleged that after death of father, the name of Dnyaneshwar Ganpat Todkar was mutated in the revenue record in respect of the properties between both the brothers including agricultural lands bearing Gat Nos. 1542, 1559, 1562, 1567 and 1627 situated at village Gunjalwadi, Taluka Junnar, District Pune. Both the brothers were cultivating their respective lands. On 15/11/2008 Bansilal Todkar i.e. father of the applicant died. The mother of the applicant her sons and daughters' names were mutated in the revenue records in respect of the said properties. That the mother of applicant had demanded partition and possession. Dnyaneshwar Todkar, who happens to be the uncle of the present applicant had turned down the said request. On 14/10/2009 the mother of the applicant had suffered Civil Suit No.189 of 2009 and had sought partition and separate possession of the joint family properties. The said civil suit is pending.

4 It appears from the record that the mother of the applicant had filed several complaints to Narayangaon Police Station alleging therein that the informant and the other relatives do not allow her to cultivate the land peacefully and use to raise quarrel over trifling issues.

5 It is alleged by the prosecution that on 30th March, 2016, Dnyaneshwar Todkar had expired and Vitthal Namdeo Pawar, who happens to be the husband of the first informant namely, Vandana obstructed the applicant and his family members from cultivating their share in the agricultural land peacefully. It is alleged that on 30/6/2016 when the the applicant and his family were cultivating agricultural land in their possession, the first informant and her family members had assaulted the accused persons. That there was an altercation between both the groups. It is alleged that Smt. Ranjana Dnyaneshwar Todkar i.e. mother of the first informant had sustained injury at the hands of the mother of the applicant. She was

admitted in civil hospital. On 15/7/2016 she expired. On 16/7/2016 Vanadana lodged a report at the police station alleging therein that in the course of altercation the present applicant had abused her mother. That the mother of the applicant had assaulted the mother of the first informant and the present applicant had pushed her mother, due to which, she fell down and had sustained fracture to her spine and ultimately she had succumbed to the injury. Prima facie, it appears from the allegation that in the course of altercation, he had pushed the mother of the first informant i.e. his paternal aunt.

6 Taking into consideration the nature of allegations, it cannot be said that the present applicant had assaulted the mother of the first informant. In an altercation she had been pushed. This Court cannot be oblivious of the fact that the dispute was between the family members. Civil dispute was pending in the court of law. The mother of the applicant is the complainant in the said civil suit. In view of this, the applicant deserves pre-arrest bail.

7 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of deciding an application for discharge or quashing of FIR or at the time of trial.

8 Hence following order is passed :

ORDER

- (i) In the event of arrest in Crime No. 110/2016, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- and one or two sureties in the like amount.
- (ii) The applicant shall report to the concerned police station on every Saturday between 10 a.m. to 12 noon for a period of four weeks and cooperate with the investigating agency.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)