

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1594 OF 2016

1 Dattatray Arjun Mote
2 Bajirao Daji Pinjari
3 Samadhan Daji Pinjari
4 Tatoba Kisan Mote
5 Vikram Dnyanu Patil
6 Popat Raghunath Pinjari
7 Appaso Sambhaji Mote. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

Mr. Kuldeep U. Nikam, advocate for Applicants.

Mr. Prashant Jadhav, APP for State.

Mr. S.M. Magdum, Head Constable, Aatpadi Police Station, Sangli.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : NOVEMBER 17, 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 applicants herein are apprehending their arrest

in Crime No. 125/16 registered at Aatpadi Police Station for offence punishable under Section 326, 325, 323, 143, 147, 148, 149, 504, 506 of the Indian Penal.

3 Perused the papers of investigation. This Court had by an order dated 3/10/2016 has granted interim relief in favour of the present applicants. It is not the case of the prosecution that the applicants have committed breach of the conditions imposed upon them.

4 Upon perusal of the medico legal case certificate issued by medical officer, rural hospital, Atpadi, it appears that the injured Sunil Mandle had sustained contused lacerated wound on the right parietal area admeasuring 5 cm x 2 cm into skin deep and abrasions of lower rib. It appears that the injured was referred to the surgery department of the said hospital. The hospital had taken CT scan of brain bearing certificate no. 6988. The endorsement on the said certificate is given by the lecturer in Radiology. There is an endorsement to the effect that “conservative treatment given by

surgery department.” Upon query made to the learned APP as to what was the nature of conservative treatment given to the injured Sunil. The learned APP upon instructions submits that 15 sutures were given on the parietal area. The nature of the injury is shown as simple injury. It is pertinent to note that till today, the Investigating Officer has neither recorded the statement of the doctor who had issued injury certificate or radiologist and had neither sought opinion from the said hospital.

5 Be that as it may. The applicants deserve pre-arrest bail. The order dated 3/10/2016 is hereby confirmed on the same terms and conditions.

6 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 the application for discharge or quashing of FIR or at the time of trial.

7 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 125/2016, 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 police station as and when called by the investigating officer by issuing notice under section 160 of the Code of Criminal Procedure, 1973 and cooperate with the investigating agency.
- (iv) The applicants shall not tamper with the evidence.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)