

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1720 OF 2016

Tanaji Arjun Patil.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. N.R. Bubna, advocate for Applicant.

Ms. Veera Shinde, APP for State.

Mr. Ganesh B. Buwa, PSI, Killa Police Station, Malegaon, Nashik.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : OCTOBER 4, 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 applicant herein is apprehending his arrest in Crime No. 68 of 2016 registered at Killa Police Station, Nashik on 16/9/2016 initially for the offence punishable under Section 324, 143, 147, 149, 427 of the Indian Penal Code. Taking into

consideration the injury sustained by the victim, Section 307 of the Indian Penal Code is added.

3 It is the case of the prosecution that on 16/9/2016 Subhash Gaikwad lodged a report at the police station alleging therein that on 15/9/2016 there was immersion procession of Ganesh Idol. After he and his son had left the temple, he had seen the present applicant and 7 others standing ambush. As soon as he came out of the temple, he was assaulted by all of them. It is alleged that they were armed with sticks. Kiran Patil had assaulted his son Ganesh with an iron rod. Similarly, Pandit Arjun Patil, Bharat Patil, Shirish Tanaji Patil and Tanaji Arjun Patil had assaulted him with sticks, fists and kick blows. Ganesh was taken to hospital. He had sustained grievous injuries.

4 Perused injury certificate. Upon conducting CT Scan, it was revealed that there was a hemotoma. There was messentric rupture. The CT scan report shows that there was a small contusion in

temporal region. The injuries were grievous. Then he was sent for practical management as he was suffering from giddiness.

5 Taking into consideration the role attributed to the applicant, it appears that he was only a member of unlawful assembly. His brother and son are in custody. They shall not claim parity with the applicant. The applicant is about 66 years old. It is seen that he was only a member of unlawful assembly and no overt act is attributed to the applicant. In view of this, the applicant deserves to be granted pre-arrest bail.

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 hearing of 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. 68/2016, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- and one or more sureties in the like amount.
 - (iii) The applicant shall report to the police station on 7/10/2016, 8/10/2016 and 9/10/2016 between 10 a.m. to 12 noon and cooperate with the investigating agency to the best of his capacity.
 - (iv) The applicant shall not tamper with the evidence.
- 8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)