

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1790 OF 2016

1 Vishwanath Bajirao Jadhav
2 Bhausahab Hari Jadhav
3 Tukaram Pandharinath Jadhav. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

Mr. Sugandh B. Deshmukh, advocate for Applicants.

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

Mr. Deepak B. Aware, PSI , Lasalgaon Police Station, Nashik.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : NOVEMBER 17, 2016**

P.C.:

1 Heard the learned Counsel for the applicants 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. 109/16 registered at Lasalgan police station, Nashik for

the offence punishable under section 395, 323, 324, 504, 506 of the Indian Penal Code. By an order dated 14/10/2016 the applicants were granted interim relief after considering the merits of the matter.

3 Perused the papers of investigation. It appears that the injured Dattatray Dada Jadhav had sustained fracture near tibia and two contusions. The injured Sharad Jadhav had sustained a blunt trauma, abrasion on right forehead. The injured Keshav Dattatray Jadhav had sustained two blunt traumas and displaced fracture on the right wrist.

4 In any case, the applicants are being prosecuted for an offence punishable under section 323 and 504 of the Indian Penal Code and therefore, the injury certificate would not assume importance. The principal allegations against the applicants is under section 395 of the Indian Penal Code. It is stated in the first information report itself that the cellphone and the SIM cards and cash amount of Rs. 15,000/- were snatched from the complainant in the scuffle. And therefore, according to the learned Counsel for the applicants, it

cannot be said that the applicants have committed offence punishable under section 395 of Indian Penal Code.

5 Be that as it may, upon perusal of the papers of investigation, interim order granted vide order dated 14/10/2016 deserves to be confirmed.

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

7 Interim relief granted vide order dated 14/10/2016 is hereby confirmed on same terms and conditions which are as follows :

ORDER

(i) The application is allowed.

(ii) In the event of arrest in Crime No.109/2016, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each and one or more sureties in the like amount.

(iii) The applicants shall report to the police station as and when called and cooperate with the investigating agency to the best of their capacity.

(iv) The applicants shall not tamper with the evidence.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)