

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1800 OF 2016

Vikas Vasant Nanekar. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

Mr. Priyal G. Sarda, advocate for Applicant.

Mr. S. S. Pednekar, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : OCTOBER 18, 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. 844 of 2016 registered at Chakan Police Station for offence punishable under Section 326, 324, 323, 504, 506, 427 read with section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 18/8/2016 one Montukumar Vijaykumar Singh, who is original resident of Asam lodged a report at the police station alleging therein that he is working as driver on the dumper of Hanumant Nanekar and prior to there, he was working as driver on the dumper of the present applicant who happens to be the nephew of Hanumant Nanekar. It is alleged that on 17/8/2016 in the afternoon when he had been to the garage alongwith the dumper of Hanumant, present applicant and his supervisor Raju Rathod had come on the spot. He was aggrieved with Montu Kumar as he has quit his job. He had assaulted him with fists and kick blows and when he fell down, his supervisor, Rathod has assaulted him with iron rod, which was lying nearby.

4 Raju Rathod was arrested and has been enlarged on bail. The first informant has alleged that after the assault, the present applicant had taken thumb mark on a blank paper and the possibility that it would be misused cannot be ruled out. There are several eye witnesses to the incident, who had rescued Montu Kumar from the

applicant and Raju Rathod. They were on the spot till the first informant had left the spot and none of the eye witnesses have stated that the applicant had forcefully taken thumb mark of the first informant. Except first informant, there is no statement to show that thumb mark was actually taken.

5 Considering the nature of allegations, custodial interrogation of the applicant would not be imperative. Hence, the applicant deserves 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 while deciding application for discharge or quashing of FIR or at the time of trial.

7 Hence, the following order is passed :

ORDER

- (i) The application is allowed.
 - (ii) In the event of arrest in Crime No. 844/2016, 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 concerned police station on every alternative Sunday for a period of 2 months and cooperate with the Investigating Officer to the best of his capacity.
- The applicant shall not tamper with the evidence.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)