

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

ANTICIPATORY BAIL APPLICATION NO. 1838 OF 2016

Surendra Nagu Yadav	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

Mr. Vijay Killedar, Advocate for the Applicant.
Ms. J.S. Lohokare, A.P.P for the Respondent – State.
Mr. Shete, P.S.I. Ambernath Police Station, present.

CORAM : N.W. SAMBRE, J.

DATED : 7th DECEMBER, 2016.

P.C. :

1 The applicant is seeking pre-arrest bail in Crime No.146 of 2016 for the offences punishable under sections 307, 143, 147, 148, 149, 452, 427, 506 of the I.P.C. r/w. Sections 37(1), 135 of the Mumbai Police Act.

2 This Court by an order dated 24.08.2016, rejected the earlier application for grant of pre-arrest bail in the present crime which has prompted the applicant to approach the Hon'ble Apex Court.

3 The Hon'ble Apex Court granted a chance to the petitioner to approach the High Court in view of the fact that he is not absconding and has been co-operating in the investigation. As such this application.

4 The learned counsel for the applicant has argued on merit so as to point out that the applicant, who is a counselor of the Municipal Corporation, is falsely implicated. He would submit that the role attributed to him in the F.I.R. would not co-relate with that of injuries suffered. According to him, the applicant, a disabled cannot be presumed to have been involved in a serious crime like the present one with an attributions of active participation.

5 Perused the entire record. What could be gathered from the investigation papers is there is an active role attributed to the applicant in the commission of crime in question. The applicant with an iron rod has assaulted the complainant on his head. There are criminal antecedents against the present applicant.

6 So far as the claim of the applicant that he is disabled and his disability could be inferred to his innocence is concerned, there is hardly any material to that effect but for his disability certificate. The applicant was present on the spot and has actively participated in the crime. The investigation papers depicts active participation of the applicant in the crime in question. The complainant has suffered grievous injury along with other simple injuries as could be verified from the investigation papers to which there are eye witnesses.

7 Apart from above, it is worth to be noted that the applicant has claimed that he has co-operated with the investigation. However it is worth to observe here that the Investigating Officer who is personally present in the Court along with the investigation papers in categorical terms has stated that the efforts on the part of the investigating agency to trace the applicant remained unfruitful and the applicant has not co-operated in investigation. The said fact of non-co-operation by the applicant is apparent as the applicant has also not attended last two meetings of the Municipal Corporation as he is absconding.

8 There is enough material to connect the prima facie involvement. As such application is rejected.

(N.W. SAMBRE, J.)