

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1943 OF 2016

Shailesh Prakash Gaikwad

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

Mr. Kabul Singh Labana Advocate for the Applicant.

Mr. Vinod Chate APP for the State.

Mr. S. B. Shinde, A.P.I., Lonavala City Police Station,
Pune (Gramin)

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 6th DECEMBER, 2016.

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 18 of 2016 registered at Lonavala Police Station for offence punishable under sections 307, 353, 363, 332, 504, 506 r/w 34 of the Indian Penal Code and section 132, 2A, 179, 184 of the Motor Vehicles Act.

2) It is the case of the prosecution that on 21/02/2016, Samil Prakash lodged a report at the police station that he is a Police Naik. On 21/02/2016, he was controlling the traffic in A-1 Chowk at Lonavala. They learnt that an accident had taken place and therefore, they went to the spot of accident.

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There they saw the Verna Car No. MH/14/CS/1431. It was learnt that the Innova Car bearing registration no. MH/05/BL/9994 had given a dash to the Verna Car and that there was an altercation. The police had inquired with the passengers in Innova Car. It was noticed that the Innova Car dashed and therefore, police had asked the passengers in Innova Car to take the car to the police station. Police had boarded the said car. Police had requested the driver of Innova Car to take the vehicle towards the police station, however, without paying any heed to the request of the police, the driver had taken the car ahead at an alarming speed. The inmates of the Innova Car had abused the complainant and assaulted him with fist and kick blows. When the matter was being reported to the seniors, it is alleged that applicant and his friends who were travelling in the said vehicle had escaped from there. Police had thus lodged the report on the basis of which offence is registered.

3) The learned counsel for the applicant submits that applicant is a student and he is prosecuting his education in 1st year in Arts faculty. In the present case, neither the complainant nor anyone else had sustained any injury. It *prima facie* appears that the allegation against the present applicant is under section 353 and 332 of the Indian Penal Code. The other accused were

arrested and enlarged on bail. However, present applicant being a student, it would not be proper to grant him custodial interrogation.

4) In view of this, application deserves to be allowed. However, it is made clear that observations made herein above are restricted to an application under section 438 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (iii) Applicant shall report to the concerned police station on first Sunday of each month till the filing of the charge-sheet.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)