

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

ANTICIPATORY BAIL APPLICATION NO.154 OF 2017

Shri Madhukar Changdev Wagh ... Applicant

Vs.

The State of Maharashtra .. Respondent

Mr.Rahul Kate i/b R.A. Zade for the Applicant

Mr.Rajan Salvi, APP, for Respondent – State

Mr.B.M. Bhatungade, Police Constable, Akluj Police Station – present

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: JANUARY 30, 2017

P.C. :

1. This application is moved by the applicant/accused for pre-arrest bail under section 438 of Criminal Procedure Code as the applicant/accused is prosecuted for the offences punishable under sections 325, 326, 143, 147, 149, 324, 504 and 506 of the Indian Penal Code at C.R. No.519 of 2016 registered with Akluj Police Station, Solapur Rural. One Sharad Changdev Wagh is the complainant and real brother of the applicant/accused. The applicant/accused and the complainant were not on good terms due to dispute regarding partition of their ancestral property. On

29.12.016, some altercation took place between the complainant and Amol, his nephew i.e., the son of the applicant/accused, who assaulted the complainant on his head with stick. Thereafter, the co-accused held his both hands and thereafter the applicant/accused fractured both the hands of the complainant with iron rod. Amol also assaulted him on the leg. Thereafter, he was treated in the hospital and complaint was registered.

2. The learned Counsel for the applicant/accused has submitted that this is a sudden attack and not pre-meditated one. He submitted that the applicant/accused has no criminal record. It is a family dispute and therefore, he be given pre-arrest bail.

3. Learned Prosecutor has opposed the application. He relied on the injury certificate of the applicant/accused and submitted that the manner in which the complainant was assaulted by his brother is cruel and therefore, he is not to be given pre-arrest bail.

4. Perused the FIR where the complainant has mentioned that his both hands were held by two co-accused and thereafter the applicant/accused, his real brother, assaulted him with iron rod and

he suffered fracture. Also perused the injury certificate which shows that both the left forearm and right forearm were fractured and they are grievous injuries alongwith other simple injuries.

5. Under such circumstances, I am not inclined to grant bail. Anticipatory Bail Application is, therefore, rejected.

(MRIDULA BHATKAR, J.)