

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 440 OF 2017

Umesh Somchand Malde. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. M.S. Mohite i/b. Mr. Santanu R. Phanase, advocate for Applicant.

Ms. J.S. Lohokare, APP for State.

Mr. Prakash S. Lahane, PSI, Tulinj Police Station, Dist. Palghar.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : MARCH 10, 2017**

P.C.:

1 Heard the learned Counsel for the applicant and 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. 68 of 2017 registered at Tulinj Police Station on 4/2/2017

for offence punishable under section 384, 324, 143, 147, 148, 149 of the Indian Penal Code and under section 37(1)(3) of the Bombay Police Act. It appears that subsequently section 326 has been added.

3 It is the case of the prosecution that the applicant and the complainant reside in close proximity. It is the case of the prosecution that on 4/2/2017 Mrs. Niraj Anup Singh lodged report at the police station alleging therein that on 3/2/2017 at about 9.30 p.m. her son Abhaypratap was proceeding towards his shop. He had seen the present applicant alongwith his friends sitting in the building premises and that they were consuming alcohol. It is alleged that Vijay and Vicky had approached her minor son and had attempted to extort by saying that they should pay them for selling onions and potatoes in the said area. That the son of the complainant had refused to oblige. There was an altercation between the son of the complainant and the said group. That her son was brutally assaulted. As far as the present applicant is concerned, it is the allegation that he had picked a wooden log lying nearby and had assaulted Abhaypratap

Singh. When his father and other family members had intervened to rescue Abhaypratap Singh, they were also assaulted. On the basis of the said report, Crime no. 68 of 2017.

4 It is a matter of record that at about same time, the applicant was also assaulted. He was injured. He had rushed to the police station to lodge a report. That the police upon seeing his injuries had referred him to the hospital by the police. The applicant had also received contused lacerated wounds on his head. He had taken treatment and had then approached the police station and on the basis of his report, crime No. 69 of 2017 is registered against Abhaypratap Singh, his mother and 3 others. It appears to be cross-case.

5 The learned Counsel for the applicant submits that the incident in Crime No. 68 of 2017 has been blown out of proportionate. There was trifling quarrel, which had taken violent turn. Taking into consideration the fact that the registration of FIR is an outcome of

trifling quarrel and coupled with the fact that the applicant is also injured in the same incident and has lodged a report to that effect, on the basis of which cognisable offence is registered, the applicant deserve grant of pre-arrest bail.

6 However, observations are restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and shall not be considered at the time of hearing application for quashing of FIR or discharge 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.68/2017 registered at Tulinj Police station, 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 Sunday between 10.30 a.m. to 12.30 p.m. and cooperate with the investigating agency to the best of his capacity till filing of charge-sheet.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)