

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 496 OF 2017

Pramod Lalchand Yadav

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Anil D'Souza Advocate for the Applicant.

Mr. M. G. Patil APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 22nd MARCH, 2017.

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. 57 of 2017 registered at Waliv Police Station for offence punishable under sections 326, 323, 504, 506 r/w 34 of the Indian Penal Code.

2) It is the case of the prosecution that on 07/02/2017, complainant Venugopal Joshi was admitted in Ridhi Vinayak Hospital. It was a medico legal case and therefore, his statement is recorded in the hospital. He has disclosed to the police that there was a dispute between the applicant and the

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complainant over a piece of land. Applicant herein insisted that he had purchased the said plot admeasuring 15 Gunthas in survey no. 117 and the complainant had also claimed his possession over the said plot. Applicant had threatened him to visit the said plot. It is alleged that on 06/02/2017, applicant had called upon the complainant to visit his office at Nalasopara as they wanted to settle the dispute between them. He was called near Avdhut Ashram. Complainant along with his brother Abhishek and his friend Virendra Dubey had been to Avdhur Ashram. Applicant herein was accompanied by Pramod Yadav, Vikesh Yadav and Rakesh Yadav. At that time, applicant herein had again reiterated that he is the purchaser of the said plot. He had threatened of dire consequences. It was then decided that they would visit the spot and settle the issue. He was taken to the plot. There was a scuffle. Applicant had exhorted his associates to hold the complainant and thereafter, applicant had assaulted the complainant with an iron rod. He had sustained bleeding injuries. Complainant was taken to Golden Park Hospital on 06/02/2017 at about 6.15 p.m. as he had sustained grievous bleeding injury to his head.

3) It appears that the history given was alleged history of assault with stone over forehead on 06/02/2017. The injuries were grievous injuries. Complainant had to be admitted in the said hospital. Thereafter, the complainant was admitted in Ridhi Vinayak Hospital. At the time of admission it was noticed that the injuries were sutured. Investigating Officer had taken the opinion from Dr. Ramanand. A certificate was issued that a CT scan was done and it was noticed that a mild diffuse cerebral edema is noted. Complainant was then taken to IASIS Hospital where it was mentioned that he was assaulted with rod. He was discharged from the hospital on 09/02/2017. The opinion given by the doctor was "Life threatening" because the injury could have resulted in intra-cranial bleeding which is life threatening.

4) Upon perusal of papers of investigation and the nature of injuries sustained by the complainant, this would not be a fit case for grant of pre-arrest bail. More so because the act was pre-meditated. It is apparent that on 06/02/2017, applicant never intended to settle the talks but threatened the complainant by adhering to violent means. He had exhorted his associates to

hold the complainant and thereafter, had assaulted him.

5) It is in these circumstances that it cannot be said that complainant had sustained injury in a scuffle or in altercation. Hence, no case for pre-arrest bail is made out. In the event that applicant appears before the Court and files an application under section either 437 or 439 of Code of Criminal Procedure, 1973, the learned Sessions Court shall not be influenced by the observations made herein above and decide the application on its own merits.

6) Application stands rejected.

(SMT. SADHANA S. JADHAV, J.)