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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.999 OF 2017

1. Pandit Bhagwan Jadhav (Sutar)
2. Siddhivinayak Pandit Jadhav (Sutar)
3. Vijay Pandit Jadhav (Sutar)
4. Maya Pandit Jadhav (Sutar)
5. Ratnamala Pandit Jadhav (Sutar) ...Applicants

Versus

The State of Maharashtra ...Respondent

Mr.Satyavrat Joshi i/b Mr.J.D.Mane for the Applicants

Mr.Rajan Salvi, A.P.P for the Respondent-State

API – G.M.Bharate, Karmala Police Station, Solapur.

CORAM : REVATI MOHITE DERE, J.

DATE : 27th JUNE, 2017

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicants seek pre-arrest bail in connection with C.R. No. 219 of 2017 registered with the Karmala Police

Station, Solapur, for the alleged offences punishable under Sections 452, 354, 323, 324, 504, 506, 143, 147, 149 of the Indian Penal Code.

3. Learned Counsel for the applicants submits that the incident took place at the spur of the moment. He submits that the allegations as against the applicants are false and baseless. He submits that although the incident is alleged to have taken place on 12th April, 2017 at around 5.30 p.m to 6.30 p.m., the FIR was lodged on the next date. He submits that the injuries caused to the injured are simple in nature.

4. Learned APP opposed the application. He submitted that the applicant nos.1 and 2 have outraged the modesty of the complainant and have assaulted the complainant and her mother – Kesherbai. He has produced the injury certificate of the injured as well as clothes panchanama of the complainant.

5. Perused the papers. The incident has taken place on 12th April, 2017 at around 5.30 p.m to 6.30 p.m. It appears that there was a dispute over a road between the complainant's family and the applicants. It appears

that the Civil Court had decided in favour of the complainant. It also appears that pursuant to the said decision, the complainant had preferred applications before various authorities to open up the said road. According to the complainant, the authorities had told her that if the road was not cleared by them, she could also do the needful. It appears that while going to remove the obstruction on the road, on the day of the incident, the applicant no.1 came to the complainant's house. It is alleged that the applicant no.1 entered the complainant's house and assaulted the complainant's mother – Kesherbai with an iron rod. According to the complainant, when she tried to intervene, the applicant no.2 also came to the spot and that they both i.e. applicant nos.1 and 2 started assaulting her; they tore her clothes from the front and touched her breasts in an objectionable manner, resulting in outraging of her modesty. She has stated that when the applicant nos.1 and 2 were assaulting her, the other 3 accused came to the spot and that they too assaulted her with a stick and also abused them.

6. Vide order dated 14th June, 2017, interim protection was granted only to applicant nos.3 to 5. As far as applicant nos.1 and 2 are

concerned, a specific overt act has been attributed to them of assault and of outraging the modesty of the complainant. The panchanama of the complainant's clothes shows that her kurta was torn from the front and that the same were blood stained. The injury certificate of the complainant shows that she has sustained 5 injuries i.e. contusions and abrasions. The injury certificate of Kesherbai shows that she has sustained CLW over both sides of biparietal region and contusion on her forehead. Kesherbai was required to be admitted in the hospital. Merely because the complaint was lodged on the next day, it cannot be said that the complaint was an over thought, more particularly when Kesherbai was required to be admitted in the hospital. The nature of injuries are consistent with the statement of the complainant. It appears that applicant nos.1 and 2 have entered the house and outraged the modesty of the complainant and assaulted her. Considering the same, this is not a fit case to grant pre-arrest bail to the applicant nos. 1 and 2. Accordingly, their prayer for pre-arrest bail is rejected.

7. As far as applicant nos.3 to 5 are concerned, considering their role, they are granted pre-arrest bail on the following terms and conditions:

ORDER

(i) In the event of the arrest, the applicant nos. 3 to 5 be enlarged on bail on executing P.R. Bond in the sum of Rs.10,000/- each with one or two sureties in the like amount ;

(ii) The applicant nos. 3 to 5 shall report to the Investigating Officer of the concerned Police Station as and when called, till the filing of the charge-sheet or for a period of three months from today, whichever is earlier;

(iii) The applicant nos. 3 to 5 shall not contact the complainant, witnesses or any person concerned with the case.

8. The Application is partly allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie* and are confined to this application.
10. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)