

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

ANTICIPATORY BAIL APPLICATION NO.2141 OF 2017

Kartarsing s/o. Devising Chitodiya **... Applicant**

V/s.

The State of Maharashtra **... Respondent**

Mr. Ashwin Sakolkar, for the Applicant.

Mr. S.S. Hulke, APP for the Respondent – State.

CORAM : A.S.GADKARI, J.

DATE : 8th DECEMBER 2017

P.C.:

. The applicant is apprehending arrest in C.R.No.385 of 2017 registered with Lonikand Police Station, Pune under Sections 436, 427 of Indian Penal Code.

2. Heard the learned Counsel for the applicant at length and the learned APP. Perused the record of investigation.

3. The first information report is lodged by Rajeshree Chitodiya. The applicant is a real brother of first informant. It is stated that the first informant is having matrimonial dispute with her husband. That, the applicant was insisting the first informant to leave her husband and stay with her parents and/or with him at Aurangabad, to which the first informant refused.

3. The first informant was residing in a makeshift home i.e. tent/hut and is earning her livelihood by selling herbs and related medicines. That, on 29.05.2017 at about 3.00 a.m., the applicant alongwith other 3 accused-persons came at her place and set her tent/hut on fire and ran away. In the said incident, the tent of first informant alongwith bag and baggages therein are burnt. In the premise, the first information report is lodged.

4. The learned Counsel for the applicant submitted that the applicant has been falsely implicated in the present crime as he was not personally present in the scene of offence. He submitted that, at 3.00 p.m. on the day of incident, there was no other witness to the said incident and in view of the long standing dispute between the applicant and his sister, there is every possibility that the applicant might have been falsely implicated in the present crime. He further submitted that the co-accused has been granted pre-arrest bail by the trial Court on the ground that they have not been named in the first information report and have not been identified by anybody. He, therefore, prayed that the applicant may also be granted pre-arrest bail.

5. The first information report clearly reveals that, the first informant was present in her said tent/hut on the date at time of incident and she has witnessed the applicant setting the tent on fire. The Panchanama effected by the police duly corroborates the version of the applicant. Taking into

consideration the fact that the said incident has taken place at the wee hours at 3.00 p.m., the presence of the other eye witness at the relevant time may not be possible. The police are investigating the present crime and investigation of the same is at a nascent stage. The process of recording of the statements of other witnesses is being carried out by the police.

6. It is to be noted here that the applicant being a real brother of first informant, instead of settling her dispute with her husband, has indulged into an activity not only detrimental to the interest of the first informant, but to her matrimonial life also. The offence alleged against the applicant is heinous in nature.

7. After taking into consideration the aforesaid facts, serious allegations against the applicant and the gravity of the offence, this Court is of the view that the applicant does not deserve to be protected by pre-arrest bail.

8. Application is accordingly rejected.

(A.S.GADKARI, J.)