

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

ANTICIPATORY BAIL APPLICATION NO.2195 OF 2017

Dada Ramchandra Lohakare

..Applicant

vs.

The State of Maharashtra

...Respondent

Mr.Girish R. Agrawal for the Applicant.

Ms.P.P. Shinde, APP for the Respondent .

Mr. S. M. Londhe Deoli Camp P.Stn.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 19th December, 2017

P.C.:

. Heard. This is an application under section 438 of Cr.P.C. The Applicant herein is apprehending his arrest in Crime No.I 80/2017 registered at Deolali Camp Police Station for the offences punishable under sections 143, 147, 149, 447, 379, 323, 504 and 506 of Indian Penal Code. It is also submitted that offence punishable under section 395 of Indian Penal Code has been subsequently added.

2. It is the case of the prosecution that on 21/11/2017 Pandu Muthal lodged report at Deolali Police Station alleging therein that civil dispute is pending between Dada Lohakare and the complainant in the Civil Court at Nashik wherein the Defendant is the sister of the present Applicant. The suit is decreed in favour of the Plaintiff and appeal is pending in the High Court. It is alleged that on 21/11/2017 when the complainant was in his agricultural land, the present Applicant Dada Lohakare and others had entered into his land and had claimed ownership of the said land and assaulted the complainant. It is alleged that the Applicant has taken away paddy crop from the agricultural land of the

complainant worth Rs.10,000/- and on the basis of the said report Crime No.I 80/2017 is registered and offence under section 395 of IPC is added.

3. In the facts of the case section 395 of IPC would not be applicable. The incident had occurred on the land of the complainant. Learned counsel for the Applicant submits that the Applicant is 71 years old, he is a retired Government Servant and suffering from paralysis. From the record it appears that there was a dispute between the complainant and the family of the Applicant. The incident had occurred at a spur of moment. Taking into consideration the facts of the case, this Court is of the opinion that custodial interrogation of the Applicant is unwarranted and he has made out a case for pre-arrest bail.

4. The observations made hereinabove are prima facie in nature and shall not be considered for quashing of FIR, discharge application or at the time of trial as they are restricted only to an application under section 438 of the Code of Criminal Procedure. Hence, the order:

ORDER

1. In the event of arrest, Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.

2. Applicant shall co-operate with the Investigating Agency and shall report to the Investigating Officer as and when called.

Application stands disposed of.

(SADHANA S. JADHAV, J.)