

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

ANTICIPATORY BAIL APPLICATION NO. 2232 OF 2017

Mangal Sitaram Satpute.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Nitesh J. Mohite i/b. Mr. Jaydeep D. Mane, advocate for applicant.

Ms. Veera Shinde, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : DECEMBER 22, 2017**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State.

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. 439 of 2017 registered at Mangalwedha Police Station for the offence punishable under section 395, 143, 147, 148, 149 of the Indian Penal Code.

3 It is the case of the prosecution that initially one Vijayanand Murde has lodged a report against Mangal Satpute that she has purchased a plot adjacent to the plot of Mr. Murde and had started construction. Since the construction is not as per the rules of grampanchayat, the complainant has filed a suit before the Civil Judge, J.D., Mangalwedha. There was interim injunction in favour of the complainant and Mangal Satpute was constrained from continuing her construction. On 1/10/2017, since construction was in progress, the complainant alongwith others were taking photographs. Due to which there was quarrel between both the groups. Accordingly, the applicant herein is being prosecuted for offence punishable under section 395 of the Indian Penal Code on the ground that the applicant alongwith Shaukat Badsha Sutar had snatched Mangalsutra from the wife of the first informant.

4 The learned Counsel for the applicant submits that co-accused has been granted pre-arrest bail. It is also submitted that the incident

had occurred at the spur of the moment. That the offence under section 395 of the Indian Penal Code is not attracted.

5 Be that as it may, in the facts of the case, the applicant deserves to be granted relief under section 438 of the Code of Criminal Procedure, 1973.

6 The above observations are prima facie in nature and restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The learned Trial Court shall not be influenced by the same at the time of hearing the 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, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- and one or more sureties in the like amount.

Iii) The applicant shall report to the concerned police station as and when called.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)