

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

ANTICIPATORY BAIL APPLICATION NO. 283 OF 2018

1	Asha Suhas Tonape.	
2	Sangita Vikas Gaikwad	... Applicants.
	Versus	
	The State of Maharashtra.	... Respondent.

Mr. Jaydeep D. Mane, advocate for Applicants.

Mr. N.B. Patil, APP for State.

Mr. D.A. Bedare, PSI, Kurduwadi Police Station.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 15, 2018**

P.C.:

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

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicants herein are apprehending their arrest in Crime No. 14 of 2018 registered at Kurduwadi Police

Station, for offence punishable under section 307, 326, 327, 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code.

3 The learned Counsel for the applicants submits that there are cross cases. Crime No. 15 of 2018 is registered in respect of the same incident by Asha Tonape i.e. the present applicant No. 1.

4 It is the case of the prosecution that on 7/1/2018 Sharad Dattatray Shingare lodged a report at the police station alleging therein that he has ancestral land of One acre in Gat No. 256. He has converted it in NA plot and sold most of the plots. That one Gaikwad who happens to be the relative of the present applicant had started construction on one of the plot which belongs to the complainant. They had obstructed him from continuing construction. There was altercation between both the groups. They had assaulted the complainant and his mother with fists and kick blows and stick, due to which they had sustained injuries. The applicant is not named in the FIR. However, it is stated that the wife of Suhas Tonape had

assaulted mother of the complainant with fists and kick blows. In the said altercation the golden mangalsutra of the mother of the complainant was lost.

5 The learned Counsel for the applicants submits that the applicants had also approached police station and lodged a report in respect of the said incident.

6 Perused the papers of investigation, more particularly, the injury certificate which shows that Phulabai Shingare i.e. the mother of the complainant had received contusion on her cheeks, forearms and in the scapular region. The injuries are described as simple in nature. Similarly the complainant has sustained abrasion and contused lacerated wound on the fronto parietal region. The injuries are described as simple injuries. Hence, prima facie it cannot be said that the offence under section 307 is made out. Hence, this Court is of the opinion that the applicants deserve to be granted pre-arrest bail.

7 However, it is made clear that the observations are prima facie in nature and are restricted to the application under section 438 of the Code of the Criminal Procedure, 1973 and trial court shall not be influenced for the purpose of quashing of FIR, discharge application or at the time of trial.

8 Hence following order is passed :

ORDER

(i) The applications are allowed.

(ii) In the event of arrest in Crime No. 14 of 2018 registered at Kurduwadi Police Station, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- each and one or more solvent sureties in the like amount.

(iii) The applicants shall make available for investigation as and when called and cooperate with the investigating agency to the best of their capacity.

9 The applications are disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)