

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

ANTICIPATORY BAIL APPLICATION NO. 285 OF 2018

Pratap Tukaram Patil.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Gaurav Parkar, advocate for Applicant.

Ms. Veera Shinde, APP for State.

Mr. S.R. Jamadar, HC, Taloja Police Station, Navi Mumbai.

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

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. 20 of 2018 registered at Taloja Police Station, for offence

punishable under section 326, 324, and 504 of the Indian Penal Code and section 25, 4 of the Indian Arms Act.

3 It is the case of the prosecution that on 7/2/2018 Sadanand Patil lodged a report at the police station alleging therein that the applicant herein happens to be his brother. They are residing separately in the said area. Their mother also resides separately. The brothers are not on cordial terms. That on 1/2/2018 at about 6 p.m. since the mother of the applicant was not feeling well, his son Pravin had been to visit her. Same was not liked by the applicant and therefore, he had abused his son and driven him out of the house. The neighbour had intervened and reconciled the father and son. It is alleged that after sometime the applicant had started abusing his brother Sadanand alleging that he was influenced his son Pravin. He had been to the house of Sadanand with sickle and has attempted to assault his son and him. His son Akash had intervened. The applicant was armed with sickle. There was an altercation between both the brothers and in the said altercation Akash and Sadanand had

sustained injury. On the basis of the said report, Crime No. 20/2018 was registered.

4 Perused the papers of investigation, more particularly, injury certificate of Sadanand and Akash. Sadanand had sustained puncture wound on the left forefinger proximately which was described as simple injury caused with sharp weapon. Similarly Akash has sustained contused lacerated wound on the left finger which was also described as simple injury.

5 The learned Counsel for the applicant submits that the said injuries cannot be described as grievous injury and therefore, offence under section 326 of the Indian Penal Code would not be attracted.

6 The learned APP submits that it would be necessary to consider the intention of the applicant since he was armed with the sickle when he visited the house of his brother Sadanand. The offence is registered under section 326 of the Indian Penal Code and not under section 307 of the Indian Penal Code.

7 In view of the above mentioned facts, this Court is of the opinion that the applicant deserves to be granted pre-arrest bail on the condition that he will not reside in Taloja area and Navi Mumbai till filing of the charge-sheet.

8 The learned Counsel for the applicant submits that since the complainant and applicant are real brothers, they may settle their quarrel. However, the same can be considered at the time of filing of the final report.

9 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.

10 Hence following order is passed :

ORDER

- (i) The applications are allowed.
- (ii) In the event of arrest in Crime No. 20 of 2018 registered at Taloja Police Station, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- and one or more solvent sureties in the like amount.
- (iii) The applicants shall not reside in Taloja area and Navi Mumbai till filing of charge-sheet.
- 11 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)