

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

ANTICIPATORY BAIL APPLICATION NO.1092 OF 2018

Prashant Madhukar Jori & Ors. Applicants
Vs.
The State of Maharashtra Respondent

**ALONGWITH
CRIMINAL APPLICATION NO.675 OF 2018**

Rahul Sadashiv Jadhav Intervenor/
Ori. Complainant

In the matter between

Prashant Madhukar Jori & Ors. Applicants
Vs.
The State of Maharashtra Respondent

Mr. Abhishek R. Avachat for the Applicants.
Mr. Shantaram A. Tarale for Intervenor.
Mr. S.R. Agarkar, APP for the State.

Mr. Aniruddha D. Gije, PSI, Daund Police Station.

Coram : **Smt. Sadhana S. Jadhav, J.**
Date : **14th June, 2018**

P.C.:

1 Heard the learned counsel for the applicants and the
learned APP.

2 This is an application under Section 438 Code of Criminal Procedure. The applicants herein are apprehending their arrest in Crime No.170 of 2018, registered at Paud Police Station, District Pune for the offences punishable under Sections 323, 326, 143, 147, 149, 504 and 506 of Indian Penal Code.

3 It is the case of the prosecution that on 26th May 2017, Rahul Sadashiv Jadhav lodged a report at the police station alleging therein that on 25th May 2018 at about 10.45 pm., he was taking a stroll on the road. He had noticed that his friend's car had deteriorated near his house. They were trying to start the same. In the meanwhile the applicants accompanied by Tushar and others had picked a quarrel stating therein that the car had deteriorated in front of tractor to obstruct the road. There was an altercation. It is alleged that the present applicants had abused the complainant and his associates. In the meanwhile, Tushar had assaulted the brother of the complainant with an iron rod affixed to the tractor. All the accused persons had assaulted with fists and kicks blows. On the basis of the said report, the offence was registered.

4 Learned counsel for the applicants submits that in fact the incident has occurred on the spur of moment. There was no premeditation. It has occurred in the course of altercation and it was individual act of Tushar to assault upon the brother of the complainant and therefore the role of the applicants will have to be distinguished from that of Tushar as none of the co-accused were aware that Tushar would certainly inflict the blow of iron rod on the head of Kailas Jadhav. Tushar had sustained grievous injury.

5 Learned APP submits that since all the accused were together and are being prosecuted for the offences punishable under Sections 143, 147, 149 of Indian Penal Code, role of the applicants cannot be distinguished. Learned counsel for the Intervenor has also submitted that the incident had rather occurred on the spur of moment, however, the conditions were aggravated by the brother of the present applicants. It is pertinent to note that in respect of the same incident, N.C. No. 590 of 2018 was registered at Paud police station for the offences punishable under Sections 323, 504 and 506

of Indian Penal Code on the basis of the report of Lata, mother of Tushar. Taking into consideration all these aspects, this Court is of the opinion that the applicants deserve pre-arrest bail.

6 The observations are restricted to application under Section 438 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence, the order :

O R D E R

- i) The application is allowed.
- ii) In the event of arrest the applicants be enlarged on bail on furnishing P.R. bonds in the sum of Rs.50,000/- each with one or more solvent sureties in the like amount.
- iii) The applicants shall report to the concerned police station from 19th June 2018 to 22nd June 2018 everyday between 10.30 am. to 1.00 pm. and co-operate with the investigating agency.

The Intervention Application is heard, allowed and disposed of.

(*Smt. Sadhana S. Jadhav*, J)