

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

ANTICIPATORY BAIL APPLICATION NO.1123 OF 2017

Prem Popat Rajguru & Anr.

... **Applicants**

V/s.

The State of Maharashtra

... **Respondent**

WITH

CRIMINAL APPLICATION NO.599 OF 2017

IN

ANTICIPATORY BAIL APPLICATION NO.1123 OF 2017

Rajesh Ramashankar Tripathi

...**Applicant/Intervener**

In the matter between

Prem Popat Rajguru & Anr.

... **Applicants**

V/s.

The State of Maharashtra

... **Respondent**

Mr. K.S. Labana for the Applicant.

Mr. Ameet Palkar, APP for the Respondent State.

CORAM : A.S.GADKARI, J.

DATE : 22nd JUNE 2018

P.C.:

1. By an order dated 30.03.2018 the applicant was granted interim relief.

2. Heard the learned counsel for the applicant and the learned APP. Perused the record of investigation.

3. The First Information Report is lodged by Mr. Rajesh Tripathi. It is the prosecution case in brief that the informant is residing on first floor and the applicant is residing on the ground floor. That, after the first informant cleaned his rooms and was sweeping the floor, the dirty water fall near the premises of the applicant and due to which, there were altercations amongst their families. The said altercations ensued in assault by the applicants upon the first informant. The Applicant No.1 thereafter abused the first informant and assaulted him on his right side jaw with the handle of a sickle. At that time, Applicant No.2 assaulted the first informant with fists blows and kicks. The first informant, therefore, received injuries to his jaw. He took treatment at hospital and thereafter lodged the present crime.

4. The learned counsel for the applicant submitted that, as a matter of fact, the first informant had a fall while he was passing through the house of the applicant and the said fall was caused due to cleaning of floor of the first informant's house. It has therefore caused injuries to him. He further submitted that the injuries

mentioned in the FIR do not corroborate with the version of the applicant.

It is submitted that the applicants have attended the investigating officer on various occasions and has given whatever recovery the Investigating Officer desires and therefore his custodial interrogation is not necessary for further investigation of the crime. He therefore prayed that the applicants may be granted pre-arrest bail.

5. At the outset, it is to be noted here that the Hon'ble Supreme Court in the case of *State Rep. by the C.B.I. vs. Anil Sharma reported in 1997 Supreme Court Cases (Cri) 1039* has held that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful information and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often

interrogation in such a condition would reduce to a mere ritual.

6. In view thereof, mere attendance of the applicant to the Investigating Officer on several occasions is of no consequence. The weapon used in the present crime by the Applicant No.1 i.e. sickle is yet to be recovered and it is the factual aspect of the investigation. Apart from the said aspect, the medical certificate produced by the Investigating Agency issued by the Casualty Medical Officer, Sir J.J.Group of Hospitals duly corroborates the version of the first informant.

7. The record of investigation further *Prima facie* indicates that there are two other eye witnesses to the present crime.

8. After taking into consideration the record of investigation, serious allegations against the applicants and the gravity of offence, this Court is of the considered view that the applicants do not deserve to be protected by pre-arrest bail.

9. Application is accordingly rejected.

(A.S.GADKARI, J.)