

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

**ANTICIPATORY BAIL APPLICATION NO.1251 OF 2018**

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| Ashok Baburao Mohite | ... Applicant  |
| V/s                  |                |
| State of Maharashtra | ... Respondent |

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Mr.N.R.Bubna for the Applicant.

Mr.Vinod Chate, APP for the State/ Respondent.

Mr.Shashikant Shinde, DYSP, SDPO, Malegaon (R), Nashik present.

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**CORAM : SMT.SADHANA S. JADHAV, J.  
DATE : JUNE 27, 2018.**

**P.C. :**

1. Heard.
2. This is an application under Section 438 of Cr.P.C.. The applicant herein is apprehending his arrest in Crime No.I-135 of 2018, registered at Malegaon Police Station on 23<sup>rd</sup> May 2018, for the offences punishable under Sections 143, 147, 148, 149, 325, 326, 307, 506 of the Indian Penal Code and under Sections 3(2), 5(a), 3(1)(r) and 3(1)(s) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.
3. It is the case of the prosecution that on 23<sup>rd</sup> May 2018 Vijay Walke was admitted in the hospital with history of assault.

His statement was recorded. He has narrated the incident to the doctor and police that on 22<sup>nd</sup> May 2018, at about 1.30 p.m., there were some trifling quarrels between the applicant and his nephew. His brother Rajendra had pacified both the sides; That the said quarrels further precipitated and in the afternoon, at about 3.00 p.m. the present applicant alongwith others had been to the house of the complainant in white Omni car. They were armed with weapons such as wooden logs, bats etc. The present applicant had assaulted the complainant on his head and his hands. On the basis of the said statement, the offence is registered.

4. Perused the injury certificates. The complainant had sustained a fracture on the lower end ulna on the left side, blunt trauma on back and thighs and contusion at the temporo parietal region. Similarly, Bapu Walke was also assaulted and sustained blunt trauma on the lumbar region and the tibia.

5. Learned APP submits that infact there was no question of abusing them by referring to their caste as the complainant shares a boundary with the applicant; there were boundary dispute between them. Learned counsel further submits

that at the most the offence could be one which is under Sections 325 or 326 of the IPC. The applicant had no intention to attempt to murder the complainant. Taking into consideration the papers of investigation and the submissions advanced by the learned counsel for the applicant, the applicant has made out the case for grant of pre-arrest bail.

6. The observations are restricted to application under section 438 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR and discharge application or at the time of trial. Hence, the following order:-

**ORDER**

- i) The Application is allowed.
- ii) In the event of arrest, the applicant be enlarged on bail on furnishing PR bond in a sum of Rs.50,000/- with one or more solvent sureties in the like amount.
- iii) The applicant shall report to the concerned police station from 2<sup>nd</sup> July 2018 to 7<sup>th</sup> July 2018, every day between 10.00 a.m. to 1.00 p.m. and co-operate the Investigating Officer.
- iv) The application is allowed and disposed of accordingly.

( SMT.SADHANA S.JADHAV, J. )