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

ANTICIPATORY BAIL APPLICATION NO. 1274 OF 2018

Hiraman Narayan Ahire and Ors. ... Applicants.

V/s.

The State of Maharashtra. ... Respondent.

Mr. Anilkumar Patil for the Applicant.

Mr. N.B. Patil, APP for the Respondent – State.

CORAM : A.S. Gadkari, J.

DATE : 27th November 2018.

P.C. :-

1. This is an application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in C.R. No. I-59 of 2018 dated 5th June 2017 registered with Vadner Police Station, Malegaon, District Nashik for the offence punishable under Section 143, 147, 148, 149, 353, 341, 323, 504, 506 of the Indian Penal Code.

2. Heard learned Counsel for the Applicant at length and the learned APP. Perused the record.

3. The First Information Report is lodged by Nitesh Khairnar, Police Constable attached to Control Room, Malegaon. The prosecution case in brief is that, on 5th June 2018, the Additional Superintendent of Police, Malegaon received confidential information that Applicant No.1 Hiranman Ahire at his residential premises is conducting gambling activities and therefore a team under the leadership of Police Inspector K.V. Chavan was deputed to take necessary action under the law. The police party thereafter visited the premise of Applicant No.1 at about 1.00 a.m. on 5th June 2018, wherein they found that 5 to 6 person were indulging into the activity of gambling. The Police personnel showed their identity cards to the said persons. The people present at the spot prevented the Police from performing their duty by creating ruckus and by indulging into tiff. It is also alleged that 2 to 3 persons tried to assault the Police personnel who were performing their duties. The Police were successful in apprehending one person namely Deepak Ahire on the spot. The informant has also effected photography of the entire scene on his mobile phone. After apprehending Deepak Ahire when the

concerned photo clip was shown to him, he identified the present Applicants as the persons who indulged into a tiff with the Police personnel.

4. Mr. Patil, learned Counsel for the Applicants submitted that the Applicants have been impleaded in the present crime out of political rivalry and they have nothing to do with the present crime. He submitted that the allegations against the Applicants even as per the FIR is of indulging into altercations with the Police personnel and nothing more than it. He submitted that custodial interrogation of the Applicants therefore is not necessary and the Applicants may be granted pre-arrest bail.

5. As far as the contention of the learned Counsel for the Applicants that, the Applicants have been roped in the present crime due to political rivalry is concerned, it appears that the Additional Superintendent of Police, Malegaon has no personal grudge or grievance against the Applicants and with a view to verify the information received by him about conduction of gambling activities by the Applicant No.1, he had deputed his subordinate officers to the scene of offence and therefore, I am of the

opinion that there is no substance in the said contention.

6. It is to be noted here that after receipt of specific confidential information by the Police that, the Applicant No.1 is conducting gambling activities at his residential premises, the Police conducted raid. On the day of incident, despite displaying and/or pointing out the identity by the Police, the accused persons herein prevented the Police from performing their lawful duty. Thus, it is apparent that the Applicants prevented the Government servants from performing their lawful duty and have committed an offence as contemplated under Section 353 of the Indian Penal Code. Prima-facie there is sufficient material available on record to show the complexity of the Applicants in the crime.

7. After taking into consideration the gravity of the offence and the serious allegations against the Applicants, this Court is of the considered view that the Applicants do not deserve to be protected against pre-arrest bail. The Application is accordingly rejected.

8. It is needless to mention that, the observations made

hereinabove are prima-facie in nature and are made in context, while deciding the present application for pre-arrest bail. The Trial Court may not get influenced by the same at the time of deciding the regular bail application or conducting trial if Police submits the charge-sheet.

(A.S. Gadkari, J.)