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

ANTICIPATORY BAIL APPLICATION NO.1404 OF 2018

Mahadev Moraji Raibole

..Applicant

Vs

The State of Maharashtra

..Respondent

Mr. M.U. Kazi for applicant.
Mr. Amit Palkar, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 16th July 2018.

P.C.:

1] The applicant is apprehending arrest in CR No.I-304 of 2017 dated 29.7.2017 registered with Kolsewadi Police Station under sections 394, 341, 34 of the Indian Penal Code.

2] Heard the learned Counsel for the applicant and the learned APP for the State. Perused the record of investigation.

3] The present case in hand is an example of, how the accused persons exploit situation by taking undue advantage, thereby robbing the persons who alleged to have been involved in an accident.

4] An accident took place on the old Mumbai-Pune Link road near Vitthalwadi Railway Station on 28.7.2017 at about 8.00 p.m. due to dashing of a two wheeler to the car of the first informant Shri Rohit Phadtare from behind. The said two wheeler vehicle was driven by Smt. Saraswati Rakshe. In the said accident, Smt. Saraswati Rakshe had a fall along with her minor nephew from her two wheeler. The first informant herein, who was travelling in the said car as a man with common prudence got down from his car and extended help to said Smt. Saraswati Rakshe. When the first informant by extending help was taking the said Smt. Saraswati Rakshe to a nearby dispensary from the said spot of accident, it is alleged that the applicant along with two co-accused accosted the informant and assaulted him with fist blows. The said lady namely Smt. Saraswati Rakshe tried to pacify the quarrel between the informant and the accused persons by informing them that, the said accident has caused due to the dash of her two wheeler to the car of the applicant, however, the accused persons pushed her. Two other persons who were accompanying the informant in his car, after observing the assault ran away from the said spot. The informant told the accused persons that the said lady had a fall from her two wheeler vehicle and therefore he is taking her for medical

treatment in nearby dispensary. However, at that time the applicant and other two accused persons assaulted the informant with iron rod on his shoulder and back and pushed him on a parked motorcycle. It is the specific case of the prosecution that, the applicant along with two accused persons caught hold of the informant and took him to a nearby office. During the said scuffle, the first informant came to know that the aged person who instigated other two persons is the applicant herein. When the first informant was being forcibly taken to nearby office by the applicant, the other two persons assaulted the first informant with wooden log and iron rod. It is the categorical allegation against the applicant that, he assaulted the informant with hard and blunt object on his chest, shoulder, back and caused injuries to his ribs. The accused persons thereafter robbed the informant of his gold chain which was on his person. It is alleged that, when the people from the vicinity gathered there, the applicant and other accused persons fled away from the scene of offence.

5] Smt. Saraswati Rakshe has lodged a crime bearing No.I-303 of 2017 with the Kolsewadi Police Station under sections 279, 337 of the Indian Penal Code read with the provisions of Motor Accident Act. The informant Shri Rohit Phadtare has lodged the present crime bearing No.I-

304 of 2017 with the same Police Station under section 394, 341 read with 34 of the Indian Penal Code.

6] The learned Counsel for the applicant submitted that, the applicant has nothing to do with the present crime and he has been implicated in the crime only because somebody present in the mob took his name due to their rivalry. He submitted that, there was no occasion for the applicant to assault the first informant and the allegation of robbing the first informant of his valuables is an exaggerated version. He therefore submitted that the applicant may be protected by pre-arrest bail by allowing his application.

7] The facts mentioned in the forgoing paragraphs giving rise to lodgment of the present crimes are the facts asserted by the prosecution which are on record. It is to be noted here that, the applicant instead of extending help to Smt. Saraswati Rakshe who had sustained injuries due to the fall in the said accident, has indulged into taking undue advantage of the situation and further indulged into robbing of valuables of the informant by assaulting him with other two accused persons. As narrated by the informant in the first information report, Smt. Saraswati Rakshe has no grievance against the first informant herein about the said accident as

she had a fall due to dashing of her own vehicle to the car of the informant from behind. As noted earlier, the applicant and other co-accused persons exploited the situation and indulged into an act such as assaulting the applicant and robbing of his valuables on a highway.

8] After taking into consideration the aforesated facts, the record of investigation, so also serious allegations against the applicant and the gravity of offence, this Court of the considered view that the applicant does not deserve to be protected by pre-arrest bail.

9] Application is accordingly rejected.

(A.S.GADKARI, J.)