

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2192 OF 2017

Dada Maruti Nagane. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Shriram Chaudhari, advocate for Applicant.

Mr. S.H. Yadav, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 20, 2018**

P.C.:

1 Heard the learned Counsel for the applicant. Learned APP submits that the Investigating Officer is not present.

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 439 of 2017 registered at Mangalwedhe Police Station, Solapur for offence punishable under section 395, 143, 147, 148 and 149 of the Indian Penal Code.

3 It is the case of the prosecution that Vijayanand Murde lodged a report at the police station on 1.10.2017 alleging therein that there is a civil dispute between the parties in respect of the site of construction of a house. On 1/10/2017, all had assembled and at that time Vijayanand was demanding the photographs of the construction site due to which there was quarrel between the groups and in the said quarrel, the applicant and Mangal Satpute had snatched the Mangalsutra from the wife of the complainant. It is in these circumstances that the applicants are being prosecuted for the offence punishable under section 395 of the Indian Penal Code.

4 Upon perusal of the papers of investigation, it is clear that the incident has occurred at the spur of the moment. Co-accused Sharif Mohammad Badshah Sutar and Shaukat Badshah Sutar have been granted pre-arrest bail by this Court vide order dated 21/12/2017.

By virtue of doctrine of parity, the applicant would also be entitled to the same relief.

5 However, it is made clear that the observations are restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and the trial court shall not be influenced by the same for the purpose of discharge application or quashing of FIR or at the time of trial.

6 Hence, following order is passed :

ORDER

(i) The application is allowed.

(ii) In the event of arrest in Crime No. 439 of 2017 registered at Mangalwedhe Police Station, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 30,000/- with one or more sureties in the like amount.

(iii) The applicant shall report to the concerned police station as and when called and cooperate with the investigating agency to the best of his capacity.

(iv) The applicant shall not tamper with the evidence.

7 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)