

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

ANTICIPATORY BAIL APPLICATION NO.2457 OF 2018

1) Ravindra Ramchandra Bhoir; and
2) Sunil Ramchandra Bhoir .. Applicants

Vs.

The State of Maharashtra .. Respondent

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Mr.S.V. Marwadi a/w. Ms.Trupti Khamkar i/b. Mr.N.M. Nadar,
Advocate for the Applicants.

Mr.S.R. Agarkar, APP for the Respondent - State.

Mr.R.K. Wade, ASI, Kelwa Sagari Police Station, District-Palghar,
present.

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CORAM : PRAKASH D. NAIK, J.

DATED : NOVEMBER 30, 2018.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.I-87 of 2018, registered with Kelwa Sagari Police Station, District-Palghar, on 6th November, 2018, for the offences punishable under Sections 323, 324, 504 and 506 read with 34 of Indian Penal Code ("IPC", for short).

2 The prosecution case in brief is as follows:

The complainant's brother had given his motorcycle to the minor son of accused no.1 for a ride. On 4th November,

2018 at about 9:00 p.m., accused nos.1 and 2, went to the house of the complainant and abused him, his mother, sister and others. Accused nos.1 and 2 gave threats of dire consequences. It is further alleged that accused no.1 assaulted Vanita Bhalchandra Bhoir i.e. mother of the complainant with iron rod.

3 While registration of the First Information Report ("FIR", for short), the offences were registered as stated hereinabove. Subsequently, the investigating machinery submitted report before the trial Court on 6th November, 2018, stating that there was a rib fracture, and, therefore, Section 325 of IPC has been added to the case. However, on 21st November, 2018, another report was submitted before the trial Court stating that there is a rib fracture and Section 326 is invoked in this case.

4 It is pertinent to note that FIR was registered under Sections 323 and 324 of IPC, and, subsequently, on account of nature of injury, Section 325 was added, in accordance with report dated 6th November, 2018. There was no change in circumstances. However, Section 326, was applied in the case. The latter offence is non-bailable in nature.

5 Learned APP pointed out the injury certificate of the injured Vanita Bhoir, issued by the private hospital where she was treated, which refers to injury which is grievous in nature. Learned APP, therefore, submitted that on account of the injury, Section 326 was added. The offence relating to Section 325, provides punishment for causing grievous hurt and Section 326 relates to voluntarily causing grievous hurt by dangerous weapons or means. Applicants were granted interim protection by the Sessions Court, and, they were directed to attend the Sessions Court. Prosecution could not satisfy as to why Section 326 has been added. In the aforesaid circumstances, the iron rod allegedly used in the crime was allegedly produced by the complainant, which was allegedly lying at the scene of the offence. Although one case was registered against applicant no.1 in the past, it has resulted in acquittal. So, presently, there are no antecedents against the applicants. In the circumstances, the reliefs, as prayed for by the applicants is required to be granted.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application No.2457 of 2018,
is allowed;

- (ii) In the event of arrest of the applicants in connection with C.R.No.I-87 of 2018, registered with Kelwa Sagari Police Station, District-Palghar, they be released on bail on their furnishing P.R. Bond in the sum of Rs.20,000/-, each, with one or more sureties in the like amount;
- (iii) Applicants shall attend Kelwa Sagari Police Station, District-Palghar, as and when called for by the investigating officer;
- (iv) Anticipatory Bail Application No.2457 of 2018, stands disposed of;

(PRAKASH D. NAIK, J.)