

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

ANTICIPATORY BAIL APPLICATION NO. 10 OF 2019

Rafiq Usman Naik ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. A. S. Khandeparkar a/w S. N. Rajpurohit I/by Khandeparkar & Associates for Applicant.

Mrs. Rutuja Ambekar, APP for Respondent – State.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 4, 2019.

P.C. :

. The Applicant is seeking pre-arrest bail in Crime No. 369 of 2018 punishable under Sections 353, 332, 341, 143, 147, 149, 504, 506 of the Indian Penal Code.

2. The case of the Applicant is, while rejecting the prayer for bail, the Court has relied upon an antecedents, viz – Regular Criminal Case No. 59 of 2013 in which the Applicant – Accused is already acquitted. The learned Counsel for the Applicant in addition would urge that the intention of the Applicant needs to be appreciated as it was never

mens rea in the mind of the Applicant to assault a public servant. According to him, the local politics has prompted his false involvement in the crime in question.

3. *Per contra*, the learned APP opposed the prayer for grant of pre-arrest bail on the ground that the Applicant is involved in serious crime. According to the learned APP, the Applicant with a specific role is named in the FIR and that being so, the Application needs to be rejected.

4. Considered rival submissions.

5. From the record it appears that the complainant – the Executive Engineer of the Public Works Department was dragged from the government vehicle while he was in discharge of his official duty and was threatened and also manhandled. He was also assaulted and his clothes were torn. The specific role is attributed to the Applicant in the FIR and the Applicant has also tried to create an impediment in performance of official duty by the complainant.

6. In such an eventuality, particularly when the public servant was dragged from the official vehicle when he was discharging his official duty by the Applicant along with 20 other people, in commission of the crime in question, if the Applicant is released on pre-arrest bail, wrong

signal will be given to the society. There is sufficient material available on record to infer *prima facie* involvement of Applicant in the crime in question apart from the satisfaction of necessary ingredients of Section under which the Applicant is booked.

7. That being so, in my opinion, no case for grant of pre-arrest bail is made out. As such, the Application fails. Hence rejected.

(NITIN W. SAMBRE, J.)