

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 662 OF 2019

1. Vimesh Kumar Yadav		
2. Rajendraprasad Yadav		
3. Akhilesh Mahendra Yadav		
4. Mohanlal Ramdas Yadav &		
5. Tejbhan @ Tejpratap Yadav	...	Applicants
V/s.		
The State of Maharashtra	...	Respondent

Dr.Nilesh Pawaskar for Applicants.
Ms.Rutuja Ambekar, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.

DATE : 15th March 2019.

P.C. :

1] The applicants are apprehending arrest in connection with C.R. No.13 of 2019 dated 06/01/2019 registered with Kurar Police Station, Mumbai, for the offence punishable under Section 392, 323, 324, 504, 506(2), 143, 147, 149 of the Indian Penal Code.

2] Heard the learned counsel for the applicants and the learned APP for the respondent-State. Perused the record of investigation.

3] The First Information Report is lodged by Mr.Jilajeet Ramsabad Yadav.

The prosecution case is that, when the informant was cleaning the gutter flowing in front of his house, co-accused Abhishek Yadav and the applicants came there and assaulted the first informant with fists and wooden instruments. It is also alleged that the applicants snatched the mobile phones from the hands of the informant and his sister Rupkala Yadav. In the premise, the present crime is registered.

4] The record indicates that the co-accused Abhishek Yadav has also lodged a crime bearing C.R. No. 14 of 2019 dated 06/01/2019 with the same Police Station arising out of the same incident. In his statement he has stated that his father has erected one office, which according to the applicants in the present crime, was erected unauthorizedly on the gutter and therefore, the applicants were insisting Abhishek Yadav to remove the same with a view to commence the repair work of gutter and in the said scuffle, the applicants herein along with other accused persons assaulted him and committed robbery of Rs.50,000/- from his shop/office.

5] The record thus makes it aptly clear that there is a case and a counter case lodged by two disputing factions over the construction of a gutter in the said vicinity. Mr.Pawaskar, the learned counsel for the applicants submitted that both the said factions are part of a larger family and there are *inter-se* disputes amongst them which has lead in lodging the present crime.

6] It is to be noted here that the present crime is registered mainly under Section 323 and 324 of the Indian Penal Code with an added allegation of snatching of mobile phone by co-accused Abhishek Yadav. It is submitted that the co-accused Abhishek Yadav has already been arrested by the police and has now been released on regular bail by the concerned Court. Necessary recovery has been effected at his instance.

7] After taking into consideration the peculiar facts and circumstances of the present case and the alleged nature of assault suffered by the witnesses herein, this Court is of the view that the custodial interrogation of the applicants for further investigation of the present crime is not necessary and the applicants can be protected by the pre-arrest bail.

8] Hence, the following Order:-

- (i) In the event of arrest in C.R. 13 of 2019 registered with Kurar Police Station, Mumbai, the applicants shall be released on bail on their furnishing PR bond in the sum of Rs.15,000/- each with one or two separate local sureties.
- (ii) The applicants shall attend the Investigating Officer from 27th March 2019 to 29th March 2019 between 10:00 am to 2:00 pm and to joint the process of investigation.
- (iii) Applicants shall not tamper with the evidence and/or influence the prosecution witnesses.
- (iv) Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]