

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 853 OF 2019

Devi Prasad @ Nitin Vijay Mishra ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

Mr.A.K. Tiwari i/b. Mr.J.R. Prajapati for Applicant.

Mr.S.S. Hulke, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.

DATE : 8th April 2019.

P.C. :

1] This is an application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in connection with C.R. No. 471 of 2018 registered with Kurar Police Station, Mumbai, for the offence punishable under Section 307, 387, 324, 323, 504 read with 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 incident in-question has taken place on 4th September 2018 at about 8 pm. The prosecution case in brief is that the applicant along with three other named accused persons in the first information report on the count of a dispute pertaining to collection of donations of Ganpati Festival of Tiranga Mitra Mandal and to deposit the amount with the treasury of the said Mandal, assaulted the informant with sharp edged weapons and iron rod on his head and other parts of body.

4] The learned counsel for the applicant submitted that the other two accused persons have been arrested by the police and are now released on regular bail. He further submitted that the police have submitted the chargesheet and therefore, the custodial interrogation of the applicant is not necessary. He, therefore, prayed that the applicant may be protected by pre-arrest bail.

5] The applicant is a named accused person in the first information report. The informant has categorically alleged that the applicant along with other three accused persons assaulted him with sharp edged iron weapons on his head and other parts of body. The medical certificate issued by Bhagwati Hospital, Boriwali (West), duly supports the contention of the first informant. The informant has

suffered two CLW's on his head admeasuring about 7 cms each. Though the police have submitted chargesheet, the investigation qua the applicant is yet to be completed. The weapon used by the applicant is yet to be recovered from him. It further appears that since the lodgment of the crime, the applicant was not traceable to the police and therefore, could not be arrested.

6] In view of the above and after taking into consideration the gravity of the offence and serious allegations against the applicant coupled with the fact of recovery of weapon at the instance of the applicant, this Court is of the considered opinion that the applicant does not deserve to be protected by pre-arrest bail.

7] Application is, accordingly, rejected.

[A.S. GADKARI, J.]