

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

CRIMINAL APPLICATION NO. 259 OF 2017

Anup Jayesh Pawar Applicant
v/s.
The State of Maharashtra and ors. Respondents

Mr. Tejash Dande a/w. Mr. Bharat Gaidhani i/b.
Tejash Dande & Associates for the Applicant.
Ms. P.N. Dabholkar, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 16th SEPTEMBER, 2021.

P. C. :-

. This is an Application under Section 439(2) of Cr.P.C. for cancellation of pre-arrest bail granted to Respondent Nos.2 to 4 by learned Additional Sessions Judge-5, Nashik vide order dated 21/04/2017 in Criminal Misc. (Bail) Application No.363 of 2017.

2. Heard Mr. Tejash Dande, learned counsel for the Applicant and Ms. P.N. Dabholkar, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The bail is sought to be cancelled mainly on the ground that the order is perverse. The records prima facie reveal that pursuant to the

first information report lodged by the Applicant, C.R.No.I-24/2017 was registered with Kalwan Police Station against Respondent Nos.2 to 4 for offences under Sections 143, 147, 148, 149, 324, 327, 447, 504, 506 r/w. 149 of the Indian Penal Code and under Section 135 of Bombay Police Act.

4. The first informant has alleged that on 15/03/2017, at about 11:30 a.m., Respondent Nos.2 and 3 along with 20 to 25 persons started construction of a road in his paddy field. When he requested them not to construct the road through his field, the Respondent No.2 pushed him and thereafter gave a blow of an iron rod on his head. It is also alleged that the Respondents also pushed his father and caused injuries to him. The Applicant claims that he lost a gold chain and cash of Rs.5,000/- in the said scuffle.

5. The medical certificate reveals that the dentures of the Applicant's father were fractured and that the Applicant had suffered simple injury. Though the certificate mentions that the final opinion as regards the injury sustained by the Applicant was to be given after the expert opinion, there is nothing on record to indicate that the expert has opined that the said injury was grievous in nature. The learned

Judge while granting pre arrest bail has considered the fact that there is a dispute pending between the first informant and other villagers over right of way. The learned Judge has observed that both the parties have lodged complaints against each other and that in C.R.No.25/2017, the first informant – Arun Pawar and some of the witnesses cited in this crime, have been enlarged on bail. Considering the facts and circumstances, the learned Judge has opined that this is not a fit case which would warrant custodial interrogation. The order is not perverse and does not suffer from infirmity. Furthermore, the learned APP has stated that the investigation is completed and the charge sheet has been filed and that the Respondents have been released on regular bail. The Respondents have not violated any of the terms and conditions of the bail and have not misused the liberty. Under the circumstances, no case is made out for cancellation of bail. Hence, the Application is dismissed.

**PREETI
H JAYANI**

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PREETI H JAYANI
Date: 2021.10.04
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(SMT. ANUJA PRABHUDESSAI, J.)