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

ANTICIPATORY BAIL APPLICATION NO.1530 OF 2023

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Rupesh Alias Rukhadbhai
Maghabhai Sondla

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. V.R. Kasle i/by Ms. Savina S. Bangera for the
applicant.

Mr. Amit A. Palkar, APP for the respondent/State.

Mr. Pravin G. Sawant for the original complainant.

CORAM : AMIT BORKAR, J.

DATED : JULY 11, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.36 of 2022 registered with Manchar (Pargaon) Police Station) for offences punishable under Sections 307, 341, 324, 336, 337, 143, 144, 147, 148, 149, 504 and 506 of the Indian Penal Code, 1860, the applicant is seeking relief of pre-arrest bail under Section 438 of the Criminal Procedure Code, 1973.

2. It is the case of prosecution that one Samatbhai Algotar lodged report on 25 March 2023 that his cousin informed him that on 24 March 2023 at about 1.30 p.m. the present applicant/accused and other co-accused came in the four wheeler

at his residence and started abusing and threatening him on account of that fact that his cousin was delivering milk in their area. When the informant and his cousin tried to run away from that place, applicant chased and caught them and assaulted the informant by means of scythe and beat his cousin by means of stick and stone. Hence, report was lodged.

3. The applicant, therefore, filed application under Section 438 of the Criminal Procedure Code, 1973 before the learned Sessions Judge which came to be rejected by order dated 21 April 2023. The applicant, therefore, filed present anticipatory bail application.

4. According to the learned advocate for the applicant, the victim and the applicant have amicably resolved their disputes. They are inter se relatives. The dispute arose out of area of operation of the applicant and informant which has now been resolved. It is, therefore, prayed that the applicant is entitled to the relief under Section 438 of the Criminal Procedure Code, 1973.

5. The law in relation to offence under Section 307 is well settled in view of the judgment of the Apex Court in **Narinder Singh & Ors. v. State of Punjab & Ors.** reported in (2014) 6 SCC 466 which was thereafter followed by the Apex Court in **State of Madhya Pradesh v. Deepak** reported in (2014) 10 SCC 285 and thereafter in **State of Madhya Pradesh v. Laxmi Narayan & Ors.** Reported in (2019) 5 SCC 688. It has been consistently held that the offence under Section 307 is not private in nature but has serious impact on the society. Since the offence under Section 307 has been termed as offence against the society,

parameters for exercise of power under Section 438 of the Criminal Procedure Code, 1973 would be same irrespective of settlement between the parties. The Court is required to consider nature and gravity of allegations and seriousness of the offence amongst other factors.

6. In the facts of the case, the material on record indicates that the applicant assaulted the informant using scythe on head. The injury certificate dated 24 March 2023 indicates two injuries, both are grievous in nature. The statement of witnesses attributes active role to the applicant of assaulting the victim by scythe. Hence, the anticipatory bail application cannot be entertained.

7. The anticipatory bail application, therefore, stands rejected. No costs.

8. It is made clear that the observations made in the present order are only for the purposes of decision on the application under Section 438 of the Criminal Procedure Code, 1973. However, the Trial Court while considering the application for bail and during trial shall not be influenced by the observations made in the present order.

(AMIT BORKAR, J.)