

Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 3509 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Date: 2023.12.16
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Dashrath Ganpat Bandari

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. H. Kazi with R. Kazi, Akeet Kazi, Ms. Shraddha V., Ather
Qureshi, Zeeshan Khan, Saitan Shaikh, for Applicant.

Smt. A. A. Takalkar, APP for State.

Mr. S. G. Deshmukh, PSI, Khadakpada Police Station,
Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 14th DECEMBER, 2023

P.C:-

- 1) Heard the learned Counsel for the applicant and the learned APP for the State.
- 2) This application is preferred for pre-arrest bail in connection with C.R. No. 437 of 2023, registered with Khadakpada Police Station, Thane, initially for the offences punishable under Sections 324, 143, 147, 149, 504 and 506 of Indian Penal Code, 1860 ("the Penal Code") and Section 37 (1) 135 of the Maharashtra Police Act, 1951. Subsequently, the

offences punishable under Sections 307 and 452 have been added.

3) There is a dispute over the proprietary title to an agricultural land between the first informant and the applicant, who is a relative of the first informant. On 8th October, 2023, the applicant and the co-accused had allegedly mounted an assault on first informant's uncle Ankush Bhandari, and Laxman Bhandari and Megnath Bhandari, his cousins. The applicant was armed with a wooden stick. Co-accused were armed with an iron rod. When the first informant went to the rescue of Ankush and Laxman, the applicant allegedly assaulted the first informant by means of a stick. Co-accused Nilesh Bhandari gave a blow by means of an iron rod on the head of the first informant. The co-accused had also assaulted the first informant and the other injured.

4) The learned Counsel for the applicant submitted that in respect of the very same occurrence, Pratik Bhandari, the son of the applicant had lodged a report vide CR No.440 of 2023 registered with Khadakpada Police Station, for the offences punishable under Sections 324 and 323 read with Section 34 of the Penal Code, in which the first informant and the members

of the informant party have been accused of having assaulted the first informant therein and his family members. The learned Counsel for the applicant further submitted that the weapon of assault allegedly used by the applicant has already been recovered from the co-accused. Therefore, custodial interrogation of the applicant is not warranted.

5) The learned APP resisted the application. It was submitted that specific role of assault has been attributed to the applicant and the co-accused.

6) I have perused the allegations of the FIR. Prima facie, it appears that on account of the dispute over the agricultural land, there was an altercation which resulted in a free fight. It seems that members of both groups have sustained injuries in the said occurrence.

7) I have also perused the injury certificate. None of the injured seem to have suffered any grievous injury. Weapons of assault also seem to have been recovered.

8) In the aforesaid view of the matter, custodial interrogation of the applicant does not seem to be warranted to facilitate further investigation. The applicant appears to have a fixed

place of abode. Possibility of fleeing away from justice and tampering with evidence, appears to be remote.

9) Hence, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 437 of 2023, registered with Khadakpada Police Station, Thane, initially for the offences punishable under Sections 143, 147, 149, 324, 307, 504 and 506 of Indian Penal Code, 1860 , the applicant be released on bail on executing a PR Bond in the sum of Rs.30,000/-with one or two sureties in the like amount.

II) The applicant shall co-operate with the investigation and attend Khadakpada Police Station, Thane, on 22nd, 26th and 27th December, 2023 in between 10.00 am to 1.00 pm and, thereafter, as and when directed by the Investigating Officer.

III) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case

IV) It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

V) The application stands disposed.

[N. J. JAMADAR, J.]