

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3998 OF 2014

Dr. Deepak Gangadhar Dadge

....Applicant.

Versus

The State of Maharashtra & Ors.

....Respondents.

Mr. Amit A. Yadkikar, Advocate for applicant.

Mrs. M.A. Deshpande, APP for State.

Mr. V.D. Gunale, Advocate for respondent Nos. 2 to 4.

CORAM : T.V. NALAWADE, J.

DATED : 6th February, 2015.

ORDER :

1) The application is filed under section 439 (2) of Criminal Procedure Code for cancellation of relief of anticipatory bail given in favour of respondent Nos. 2 to 5 by Sessions Court. Both the sides are heard.

2) The crime is registered for offences punishable under sections 436, 457 and 380 of Indian Penal Code on the basis of report given by present applicant Dr. Deepak. He has made allegations that his hospital was set on fire and the amount of Rs. 2.5 lakh kept in the locker from hospital was taken away by the respondents on the night between 16.2.2014 and 17.2.2014.

Respondent No. 2 Karan is real uncle of applicant. Respondent Nos. 3 and 4 are sons of respondent No. 2 and respondent No. 5 Dharmpal is son in law of respondent No. 2. Dispute is going on between the family of respondent No. 2 on one side and the families of applicant and another uncle of applicant on the other over the shares of building where the incident took place.

3) It is the case of applicant that on 13.2.2014 he had closed the dispensary/hospital and he has gone out of station. It is his case that on 17.2.2014 he returned at about 9.00 a.m. from the outstation and he noticed that the main lock of main gate was in broken condition. It is his case that when he entered the hospital, he realized that the hospital was set on fire and somebody had taken cash of Rs. 2.5 lakh which he had kept in the locker of the hospital. He gave report on 17.2.2014 and he expressed suspicion against the present respondents for the incident.

4) The papers of investigation include the statements of compounders of present applicant. They show that they had noticed in the morning on 17.2.2014 that smoke was coming out from the hospital. They noticed that articles were in burnt condition. There is statement of mother of the applicant which is

to the effect that applicant and she had returned to Latur on 16.2.2014 itself and they had entered the hospital on 16.2.2014 at about 9.30 p.m. and with the help of one Sweeper, they had cleaned the hospital as it was in closed condition for about four days. The learned APP submitted that the account statement in respect of applicant shows that he had withdrawn the amount at the relevant time. However, from the contentions made in the F.I.R., it can be said that on the day of withdrawal, the applicant was not present in Latur. The record shows that there is dispute of civil nature between the parties. The father of the applicant had partitioned the building amongst three brothers who include respondent No. 2. Even after preparing memorandum of partition on 18.2.2014 applicant had tried to enter his own name in the city survey record of the building and then he had tried to make construction by showing that he was the owner of entire portion. Grievance was raised by respondent No. 2 in city survey office in February 2014 and the entry made in favour of father of the applicant in city survey record came to be cancelled. Even the permission granted by Local Body was also cancelled and so the construction was stayed. The learned counsel for the applicant submitted that in the past, father of applicant had received threats that incident of aforesaid sort will happen.

5) In view of the nature of dispute and aforesaid record, this Court holds that it was desirable for the investigating agency to take specific opinion regarding the cause of fire. Surprisingly the report is given by one Officer of Electricity Board that as there are specific allegations made against the present respondents, he is not in the position to give the opinion. The statements of witnesses show that when they entered the hospital, they did not find that the lock was in broken condition. When the spot panchanama was drawn new lock was found hanging at the entrance door and police did not notice that somebody had used force for breaking the lock and by using force opened the door.

6) Cancellation of relief like bail or anticipatory bail is a very serious matter. In view of nature of dispute and aforesaid circumstances, this Court holds that it is not possible to interfere in the order made by the learned Sessions Court.

7) In the result, the application stands rejected.

[T.V. NALAWADE, J.]

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