

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 247 OF 2015

Narayan Mohansing Rajput & Anr. .. Applicants

Versus

State of Maharashtra .. Respondent

Mr. K.J. Tandale for the Applicants.
Mr. J.H. Ramugade, A.P.P. for the State.

CORAM :- SMT. SADHANA S. JADHAV, J.
DATED :- 2nd MARCH 2015.

PC. :-

1) Heard. This is application under Section 438 of Cr.P.C. The applicants herein are apprehending their arrest in Crime No.I-356 of 2014 registered at Vijapur Naka Police Station, for the offences punishable under sections 452, 448, 427, 504, 506 r/w. 34 of I.P.C.

2) It is the case of the prosecution that the complainant Dattu Digambar Dethe had filed Civil Suit against Kisansing Rajput which was registered as R.C.S. No.918 of 2006. Similarly, the father of the present applicant had also filed the suit against the complainant which was bearing R.C.S. No.1014 of 2001. Both the suits were decreed in favour of the original plaintiff i.e. the complainant. Being aggrieved by the same, the Kisansing Bhagatsing Rajput and Mohansing Bhagatsing Rajput had filed Civil Appeal

Nos.146 of 2010 and 147 of 2010. The said Civil Appeals were dismissed by the judgment and order dated 20th November 2013. A decree was drawn in favour of the original complainant. On 11 December 2014, with the help of Court bailiff, the possession was given in favour of the original complainant. Mohansing Rajput and the present applicant had made it clear that they would not clear to handover the possession in favour of the complainant. Hence the complainant had to call for Police security. The police had taken the applicants and their father to M.I.D.C. Police Station. The Police had given an understanding to the present applicants and their father. They had agreed before the Police that they would co-operate in handing over the possession but thereafter on the same day after the bailiff and the police had left the premises, the complainant had put in his own lock. At about 3.30 p.m. the applicants herein along Mohansing Rajput had broke open the lock with the help of stone. They had trespass into the said premises. They had kept their belongings in the said premises. They had abused the complainant and put him under the fear of causing hurt. The complainant and his family members were threatened of dire consequences. It is alleged that the applicants had also attempted to assault the complainant. They had not only committed contempt of Court but had committed criminal trespass into the premises even after giving undertaking to the police and the bailiff that they would co-operate and handing over the possession. Prima facie it appears on the basis of the record that the applicants had no regard to the law. Complainant had to take police protection and soon after the police left, the applicants had not

only committed criminal trespass but had threatened of dire consequences.

3) In view of this, the applicants do not deserve grant of pre-arrest bail as their criminal acts are apparent on the face of the record.

4) Learned counsel for the applicants submits that there is nothing to recover from the applicants. It is simple offence under Section 452 of I.P.C. According to the learned counsel Section 452 of I.P.C. is also not made out. However, this is an application under Section 438 of Cr.P.C.

5) Taking into consideration the conduct of the applicants, this Court is not inclined to grant pre-arrest bail.

Order

- (i) Application stands rejected.
- (ii) The oral prayer for staying this order is rejected.

(SMT. SADHANA S. JADHAV, J.)