

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1142 OF 2015

Mahadev Gopal Kamble	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Shekhar A. Ingawale, Advocate for the applicant.
Ms. Veera Shinde, APP for the State.
I.O. Mr. T.B. Vanjole, H.C. 1120, Gandhi Nagar Police Station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **AUGUST 12, 2015**

P.C.:

Leave to amend to correct the name of police station.

2. This Application is moved for pre-arrest bail, as the applicant/accused is apprehending arrest under sections 147, 148, 149, 395 the Indian Penal Code in C.R. No. 36 of 2015 registered with Gandhinagar Police Station, Kolhapur. The offence was registered at the instance of Samrat Prakash Gondhali on 18th April, 2015. The incident of assault has taken place on 16th April, 2015.

3. It is the case of the prosecution that family of complainant and family of co-accused Suraj Kamble, Ganesh Kamble are hostile towards each other. On 16th April, 2015 at around 8.15 p.m. when the complainant was proceeding on motorcycle, he was attacked by the applicant/accused and

co-accused. They pulled him from the motorcycle, assaulted him with iron rod and stick and took away his gold chain, gold finger ring, cash of Rs.300/- and handset. When one witness intervened, they ran away. Thereafter, the offence was registered.

4. The learned counsel for the applicant/accused submitted that the complaint was given two days after the incident. After the incident, offence under section 395 is falsely mentioned just to make this case non-bailable. The learned counsel submitted that all other accused are released on regular bail and there is no recovery of gold articles from the accused. He submitted that applicant/accused is owner of the hotel and is ready to abide by the conditions of this Court. Moreover, there is no criminal antecedents against the applicant/accused. Hence, the applicant be protected by granting pre-arrest bail.

5. Learned APP opposed the application. She submitted that the applicant/accused was one of the assailant. The complainant was robbed of gold ornaments, handset and cash of Rs.300/-. She relied on the statement of Atul Pandare, who has attributed specific role of taking away handset and cash from the injured. She submitted that the applicant/accused is not to be granted pre-arrest bail.

6. Perused the FIR, statement of eye witness and the order passed by

the learned Sessions Judge while granting regular bail to the other accused. It shows that other accused who have taken away gold ornaments were arrested, however, there is no recovery. There is delay of 2 days in filing FIR. The applicant/accused has no criminal antecedents. In view of this, I am inclined to grant pre-arrest bail to the applicant/accused on the following terms and conditions:

ORDER

- (i) In the event of arrest, the applicant/accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.20,000/- with one or two sureties in the like amount.
- (ii) The applicant shall not tamper with the evidence.
- (iii) The applicant shall not indulge into any kind of criminal activity.
- (iv) The applicant shall cooperate with the investigating officer and attend the concerned police station on every Tuesday between 4 p.m. to 6 p.m. till filing of the charge sheet.

7. The Application stands disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)