

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1419 OF 2015

Muktar Gulab Mulla	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Rahul S Kate, Adv. for the applicant.

Mrs. G.P. Mulekar, APP for the State.

Mr. Aslam Malik, Adv. for Respondent No.2.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 15th December, 2015.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in Crime No.237 of 2015 registered at Satara City Police Station for the offences punishable under Sections 454, 457, 380 read with 34 of the IPC.

2. The case of the prosecution in brief is that the applicant herein had criminally trespassed into the house of the complainant and had taken away all her household articles from the said house. Pursuant to the said FIR the aforesaid crime came to be registered.

3. The applicant had filed an application for bail before the Sessions Judge, Satara. The said application came to be dismissed by

an order dated 29th May, 2015. The applicant has, therefore, filed the present application for anticipatory bail under Section 438 of Cr.P.C.

4. Mr. Kate, the learned counsel for the applicant has submitted that on 28th March, 2015, the landlord Siraj Mulla had called upon the father of the complainant to vacate the house. Subsequently on 30th April, 2015 the landlord Siraj had told the father of the complainant to take away all the belongings from the said house. The present complaint came to be filed on 4th May, 2015 alleging that the applicant herein had taken away the household articles of the complainant and had committed theft of gold ornaments. The learned counsel for the applicant has further submitted that in the FIR dated 18th May, 2015, which was lodged subsequently, the complainant had alleged that the jewelery was taken away by her in laws. The learned counsel further submitted that the FIR does not prima facie disclose the essential ingredients of the offence alleged. Hence the presence of the applicant is not required for custodial interrogation. He, therefore, submits that the applicant is entitled for bail.

5. Mrs. Mulekar, the learned APP for the State and Mr. Malik,

the learned counsel for respondent No.2 submitted that some of the household articles have been recovered from the house of Maruti Shinde. The statement of Maruti Shinde prima facie reveals that the applicant had kept the said articles in his house. Mr. Malik, the learned counsel for the respondent No.2 further submitted that remaining household articles are yet to be recovered. Hence the presence of the applicant is required for the custodial interrogation.

6. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties. The records prima facie reveal that there is a matrimonial dispute between the complainant and her husband. The applicant herein is the maternal uncle of the husband of the complainant. The records further reveal that the complainant was residing in a rental premises belonging to one Siraj Mulla. On 28th March, 2015 said Siraj Mulla had called upon the father of the complainant to vacate the said premises. On 30th April, 2015 said Siraj Mulla had informed father of the complainant that the applicant herein had already taken away the household articles. The FIR indicates that the applicant had taken away the household articles on 30th April, 2015, however, the FIR came to be lodged on 4th May, 2015.

7. It is also pertinent to note that in the subsequent FIR dated 18th May, 2015, the complainant has stated that the gold ornaments were taken away by her in laws. Considering this aspect as well as the nature of the dispute, in my considered view, this is not a fit case for custodial interrogation. Even otherwise the applicant was granted interim bail and was directed to report to the investigating officer. Accordingly the applicant has reported to the investigating officer and he has been duly interrogated. The presence of the applicant is therefore not required for investigation. The applicant is a permanent resident of Satara and there is no possibility of the applicant absconding.

8. In view of the above facts and circumstances, the application is allowed on the following terms and conditions.

1. In the event of arrest of the applicant in Crime No.237 of 2015 registered at Satara City Police Station, the applicant shall be released on bail bond of Rs.20,000/(Rupees Twenty Thousand Only) with one or two sureties in the like amount to the satisfaction of the JMFC, Satara.
2. The applicant shall report to investigating officer for 4 days

from 10 am to 1 pm and further as and when required by the investigating officer for the purpose of the interrogation.

3. The applicant shall not tamper with the evidence or influence complainant and witnesses in any manner.
4. The applicant shall not leave Satara district till filing of the chargesheet without prior permission of JMFC, Satara.

(ANUJA PRABHUDESSAI, J.)