

nsc.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.99 OF 2015

Atmaram Laxman Sawardekar ... Applicant
V/s.
State of Maharashtra ... Respondent

Mr.A.H.H.Ponda a/w Mr.Kushal Mor and Mr.Dinesh G. Mishra, for the Applicant.

Ms.A.T.Javeri, APP for the Respondent – State.

Mr.Uday P. Warunjikar, for the original complainant.

API – Amar V. Jagdale, Crime Branch Unit II, Panvel.

CORAM : REVATI MOHITE DERE, J.

DATED : 20th FEBRUARY, 2015.

PC.

1. Heard learned counsel for the applicant and learned APP for the State.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. no.25 of 2015 registered with the Panvel City Police Station, District – Navi Mumbai, for the alleged offences punishable under Sections 341, 354, 141, 343, 323, 504, 506 of the Indian Penal Code.

3. The applicant and the father in law of the first complainant along

with one Ganpat Ambekar, Harishchandra Ambekar and Sitaram Ambekar were in the business of making of body (coach) building and fabrication of motor vehicles body. The said partnership firm was being run under the name and style of "Trimurti Enterprises". The said firm had its factory at Panvel, District Raigad. Inter se disputes arose between the applicant and other partners i.e. Ganpat Ambekar, Harishchandra Ambekar and Sitaram Ambekar, which led to the other partners, viz. Ganpat Ambekar, Harishchandra Ambekar and Sitaram Ambekar starting another partnership firm by a similar name "Trimurti Auto Body". As a result of the same, inter se disputes arose between the parties. Both parties have initiated litigation against each other, civil and criminal.

4. It is alleged by the prosecution, that on 12th December, 2014, when the applicant was on his way to meet his son at his son's factory at village Shirdhon, Taluka Panvel, which is situated behind Trimurti Enterprises, the alleged incident had taken place. It is alleged that some incident took place outside the factory gate of 'Trimurti Enterprises' at around 11.45 to 11.50 p.m. on 12th December, 2014. It is alleged by the applicant, that when he reached the gate of the factory, he was abused, threatened and pushed around by four ladies. Pursuant to the said incident, the present

applicant lodged a complaint with the Panvel City Police Station, on 13th December, 2014 at 00.15 hrs, as against Kalpana Ambekar, Kanchan Ambekar, Jyoti Ambekar and Manisha Ambekar. The said complaint was registered as N.C.No.2366 of 2014, alleging offences punishable under Sections 323, 504 and 506 of the Indian Penal Code. Thereafter, with regard to the same incident, the complainant – Saiyali Ambekar@ Kalpana also lodged a complaint with the Panvel City Police Station on 13th December, 2014 at 12.30 noon, which was registered as an N.C, being N.C. No.2370 of 2014. In the said N.C, the complainant – Saiyali Ambekar has made allegations against the present applicant, that he abused and threatened her. The offences alleged in the N.C. were Section 504 and 506. Thereafter, on 25th December, 2014, the statement of the complainant came to be recorded by the Panvel City Police Station which was subsequently registered as an FIR on 24th January, 2015, alleging offences punishable under Sections 341, 354, 141, 343, 323, 504, 506 of the Indian Penal Code. The said FIR arises out of the same incident of 12th December, 2014, for which the present applicant had also lodged an N.C. on 13th December, 2014.

5. Learned Counsel for the applicant contended that a false complaint

has been lodged, against the applicant, only because of the disputes pending between the parties. He submitted that the applicant had lodged an NC, first in point of time, soon after the incident, against the four ladies and that much later, with regard to the same incident, the complainant – Saiyali Ambekar had lodged an NC with the Panvel City Police Station on 13th December, 2014 at 12.30 noon. He submitted that from the perusal of the NC lodged by Saiyali, it is evident that the nature of allegations are different from that of the complaint lodged subsequently by Saiyali Ambekar on 25th December, 2014.

6. Mr.Warunjikar, contended, that as the complaint which was recorded as an N.C by the Panvel City Police Station, was not recorded properly, a representation was made by the complainant to the higher authorities, pursuant to which her statement dated 25th December, 2014 came to be recorded.

7. Perused the NCs, complaints and all the annexures to the application. It appears that there are several disputes and litigation pending between the parties. With regard to the same incident, both the parties have lodged a complaint, the applicant's complaint being first and

immediate. Considering the nature of the allegations initially in the NC and subsequently in the FIR, and considering the peculiar facts and the background of this case, prima-facie the possibility of the applicant aged 64 years, being falsely implicated in the act, alleging outraging of the complainant's modesty, cannot be ruled out all together. Under these circumstances, in the facts, the custodial interrogation of the applicant is not necessary.

8. Considering the aforesaid facts, the Applicant deserves to be enlarged on bail in the event of his arrest on the following terms :-

- i) In the event of the arrest, the Applicant be enlarged on bail, on furnishing P.R. Bond in the sum of Rs.15,000/-, with one or two sureties in the like amount ;
- ii) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case.

9. The Application is allowed and disposed of in above terms.

10. Needless to observe, that the aforesaid observations are prima-facie, for the purpose of deciding the present application and the learned Judge

shall decide the case on its own merits, uninfluenced by the observations made in this order.

11. Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)