

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAILAPPLICATION NO. 118 OF 2015

Mr. Namdev Gangaram Shirgaonkar ... Applicant
vs.
The State of Maharashtra ... Respondents

Mr. Shradha Sawant, Advocate for the applicant
Mr. J.H. Ramugade, APP, for the respondent-State.

CORAM: SMT. SADHANA S. JADHAV, J.
DATE : 27th January, 2015.

P.C.

Heard. This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No.1 of 2015 registered at Ratnagiri Police Station for the offences punishable under Sections 332, 395 of Indian Penal Code.

2. It is the case of the prosecution that on 1.1.2015, Sachin Dinkar Sanap, Police Constable lodged a report at the Ratnagiri Police Station alleging therein that in the intervening night of 31st December, 2014 and 1.1.2015, the complainant along with Sub-Divisional Police Officer was on patrolling duty. At about midnight, they were passing near Ganpati pule area. At about 1.30 a.m., the patrolling staff saw that some young boys were dancing on the tune of loud music. The applicant herein runs A-1 Chinese Centre. The boys were dancing near the Chinese Centre. The applicant resides behind the Chinese Centre. The

SDPO had requested the young boys to stop the speakers as the stipulated time was over. They had asked as to who is the owner of the Chines Centre. The applicant appears to have presented himself and informed the police that he happens to be the owner of Chinese Centre. He is alleged to have told the police that he can keep the speakers on till 5 a.m. There was some verbal altercation. At that stage 10 – 12 boys who were dancing had assaulted the complainant with fist. One of the boys had also assaulted him with an iron fighter on his face. He had sustained bleeding injuries and thereafter one of the boys had snatched a golden chain from the person of the complainant. The offence was registered on the basis of the statement of the complainant.

3. Perused the papers of investigation. The medical certificate of the complainant shows that he had sustained one abrasion on the right side of his face and one laceration on the same side which are simple injuries.

4. It is not the case of the complainant that the applicant had assaulted him or that he had snatched the golden chain from the person of the complainant. The story put forth by the applicant is that on 1.1.2015, the complainant had entered into his house and threatened him and his family members and asked him about the identity of the boys who were dancing on the previous day. The incident is not disputed. However, no role is attributed to the present applicant.

5. The learned APP, upon instructions from the I.O. Who is present in

the Court, has submitted that the complainant was on duty. The first information report also does not reveal that the SDPO had intervened or that the SDPO had taken any action to stop. The SDPO is alleged to have pacified the group and then left.

6. The learned Senior Counsel rightly submits that on the spot, the complainant had not disclosed to the SDPO that a chain was lost or else the boys would have been detained and a search could have been taken. Be that as it may, taking into consideration the facts and circumstances of the case, this Court is of the opinion that the applicant has made out a case for grant of pre-arrest bail.

5. The observations made hereinabove are prima facie in nature and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

(i) The application is allowed. In the event of his 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 report to the concerned police station on three consecutive Sundays commencing from 1.2.2015 between 10 a.m. to 12 noon.

Application is allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)