

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 232 OF 2015

1. Dattaraj Tukaram Thombre
2. Kanu B. Trivedi
3. Sakharam Narayand Tandel
4. Sandip Boble

.....Applicants

V/s.

The State of Maharashtra

....Respondent

Mr. Ganesh Kamath a/w Napoleon Tuscano for Applicants
Mr. Santosh Singh for respondent no. 2
Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 8th JULY 2015

PC :

Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicants herein are apprehending their arrest in crime no. 183 of 2014 registered at Nalasopara Police Station for offence punishable under sections 406, 420, 465, 467, 468, 471, 506 r/w 34 of Indian Penal Code.

2) In this case, first order was passed on 17/02/2015. Learned APP had sought time to take instructions. Time was granted, applicants were protected by virtue of a direction to the police that applicants shall not be arrested. Matter was adjourned from time to time. Learned APP submits that she had

sent several reminders to the Investigating Officer requesting him to give instructions on the basis of papers of investigation.

3) Learned APP is an officer of the Court. Today she has fairly submitted that investigating agency is not co-operating with the office of prosecution in the High Court. On 08/06/2015 also she had sought time and time was granted. Matter was adjourned to 23/06/2015. Today also, Investigating Officer is neither present with papers of investigation nor has deputed any personnel. In view of this, application is being heard on merits. Learned counsel representing original complainant has filed an affidavit opposing grant of relief in favour of applicants.

4) It is the case of prosecution that in February 2014, complainant herein filed an application before Judicial Magistrate First Class at Vasai Court against present applicants wherein it was alleged that present applicants were members of Managing Committee of New Saraswat Nagar Society. That the members of the Managing Committee had not filed M-20 after they were elected. It is alleged that applicants had not maintained the records of the society in accordance with bylaws of the society. It is also alleged that present applicants have misappropriated the funds of society. Principal allegation is in

respect of submission of bond under section 73(1) (A)(B) of Maharashtra Co-operative Societies Act, 1960. First Chariman Ravi Sagar had resigned and Sakharam Tandel was appointed as Chairman of society. There are proceedings before Statutory authorities under Maharashtra Co-operative Societies Act. In the course of enquiry under section 88 of said act, liability was fixed upon the members of Managing Committee. Learned counsel for the complainant submits that till today, they have not discharged the liability, but have filed an appeal against order of Deputy Registrar.

5) Learned counsel for the applicants submits that Managing Committee has been dissolved. Administrator was appointed. New Managing Committee has taken charge from Administrator. Learned counsel for the intervener submits that records of office have not been given to the new Managing Committee members and that they are in the custody of present applicants and therefore, according to him, for recovery of the said records, applicants should be given custody.

6) It is an admitted position that present Managing Committee has taken charge from the Administrator and at the time of taking over the charge, in all probabilities, Administrator has verified the records of the society. In any

case, there are several proceedings against erstwhile Managing Committee i.e. present applicants before Statutory authorities and had contentions raised in the complaint are subjudiced before Statutory authorities. In view of this, applicants deserve pre-arrest bail. It is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicants be enlarged on bail on furnishing P. R. bond in the sum of Rs. 25,000/- each with one or more solvent sureties in the like amount.
- (iii) Applicants shall report to concerned police station from 14/07/2015 to 17/07/2015 and from 20/07/2015 to 23/07/2015 between 10.00 a.m. to 01.00 p.m.
- (iv) Breach of conditions so imposed would entail cancellation of relief granted in favour of applicants.
- (v) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)