

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 266 OF 2015

Vivek Sanjay Kate

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Kuldeep Patil a/w Prashant Hagare Advocate for Applicant
Mr. D. P. Adsule APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : FEBRUARY 24, 2015

PC :

1) Learned APP waives service and seeks time to take instructions. Time as prayed for is granted. Stand over to 05/03/2015.

2) This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 39 of 2015 registered at Baramati Police Station on 05/02/2015 for offences punishable under sections 143, 147, 148, 149, 354 (A), 325, 326, 324, 323, 504 & 506 of Indian Penal Code.

3) On 05/02/2015, Mrs. Yogita Dalvi lodged a report at the police station

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alleging therein that there are civil disputes pending between Dalvi family and Kate family. On 04/02/2015, applicant along with others had come to their house and threatened them and had also asked them to withdraw the civil proceedings and in the said altercation, people from Dalvi family were injured. It appears from the records that Sanjay Kate & Sripad Kate have filed civil suit before Civil Judge Senior Division, Baramati against Dalvi family which is registered as Regular Civil Suit No. 15 of 2015. Suit is for permanent injunction. Plaintiffs had filed an application under Order 39 Rule 1 below Exhibit 5. Learned Jt. Civil Judge Senior Division, by an order dated 16/01/2015 has observed that "Sale deed shows that possession was handed over to the plaintiffs on the day of sale deed". Possession was with the plaintiffs and therefore, learned Judge has granted Ex-party injunction against all the defendants.

4) Learned counsel for the applicants submits that in the given circumstances, it was not necessary for the present applicant and others to request the defendants to withdraw the suit filed by them. Order was passed on 16/01/2015 and the alleged incident has occurred on 04/02/2015.

5) It prima facie appears that incident is an outcome of civil dispute. Applicant has prima facie made a case for grant of pre-arrest bail. However, it is made clear that co-accused in crime no. 39 of 2015 shall not claim parity with the present applicant.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.
- (iii) Applicant shall report to the police station as and when called.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)