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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.377 OF 2015

Abdul Wahid Baig and Anr. ... Applicants

V/s.

The State of Maharashtra ... Respondent

Mr.Mateen Shaikh, for the Applicants.

Ms.Rutuja Ambekar, APP for the Respondent – State.

Police Naik – 31908, A.B.Sonawane, Meghwadi Police Station.

CORAM : REVATI MOHITE DERE, J.

DATED : 13th MARCH, 2015.

PC.

1. Heard learned counsel for the Applicants and learned APP for the Respondent - State.

2. By this application, the applicants seek pre-arrest bail in connection with C.R. no.367 of 2014, registered with the Meghwadi Police Station, Mumbai, for the alleged offences punishable under Sections 354, 509, 506(2), 323, 504, 34 of the Indian Penal Code and Sections 8, 10 and 12 of the POCSO Act.

3. A few facts as are necessary to decide the said application are as under:-

The applicant no.1 is the father of the complainant, who had lodged a complaint with the Meghwadi Police Station, Mumbai, initially alleging offences punishable under Sections 354, 509, 506(2), 323, 504 r/w 34 of the Indian Penal Code. One of the applicant no.1's daughter is a major, whereas, the other is a minor, aged 16 years of age and hence subsequently POCSO was applied. The first wife of the applicant no.1 died on 17th February, 2014. It appears that the house in which the applicant no.1 and his children were residing stood in the name of his first wife. After the death of applicant no.1's first wife, disputes arose between the parties. On 20th March, 2014, the applicant no.1 lodged a complaint with the Senior Inspector of Police, Meghwadi Police Station, as against his three daughters, son, brother-in-law, mother-in-law and wife of the brother-in-law. It was alleged in the said complaint, that all the aforesaid persons were likely to implicate him in a false complaint, with the intention to grab the property. The said complaint was registered as an N.C. Thereafter, another NC was lodged by the applicant no.1 on 29th October, 2014. In view of the on-going disputes, the present applicant no.1, filed a private complaint in the Court of Learned Metropolitan

Magistrate, Railway Mobile Court, Andheri, Mumbai, as against his three daughters, son, brother-in-law, mother-in-law and wife of the brother-in-law. It appears from the said complaint that there is a dispute with regard to the premises, where the applicant and his daughters are staying.

4. Learned Counsel for the Applicants contended that as the applicant no.1 got married again on 19th June, 2014, disputes arose between the applicant and his daughters and son, resulting in false cases being lodged against the applicants. He submitted that pursuant to a complaint, lodged by the applicant no.1's daughter, alleging outraging of modesty against the applicants, C.R.No.367 of 2014 came to be registered with the Meghwadi Police Station, on 19th December, 2014. In the said C.R the applicants were enlarged on bail. Thereafter, during the course of investigation, the statement of the applicant no.1's second daughter, a minor, was recorded, which disclosed commission of an offence under POCSO and therefore in the same C.R., the provisions of POCSO came to be added. In view of the same, notice came to be issued to the applicants seeking cancellation of their bail. It appears that the accused filed an Anticipatory Bail Application before the Sessions Court, which came to be rejected on 21st January, 2015 and hence the applicant approached this

Court vide Anticipatory Bail Application No.150 of 2015 seeking anticipatory bail, which was withdrawn by the applicants. Vide order dated 4th February, 2015, this Court (Coram : P.D.Kode,J.) had granted liberty to the applicants to appear before the trial/remand Court and file a reply to the notice issued for cancellation of their bail. Liberty was granted to the applicants to apply afresh, if warranted, due to occurrence of subsequent events. It appears that in view of the application of certain provisions of POCSO, the applicants preferred another application seeking anticipatory bail before the learned Special Judge, which was rejected. Hence, this application.

4. Although the nature of allegations as against the applicants are serious in nature, the fact remains that there is a chequered history of dispute with regard to the property/premises, between the applicant no.1 and his daughters. There are two NC's which have been lodged by the applicant no.1 as against his daughters, son and others. Apart from the aforesaid fact, the applicants were already arrested in connection with C.R.No. 367 of 2014 and thereafter, released on bail, although at that time POCSO was not added.

5. Learned Counsel for the applicants states that he will adopt appropriate civil proceedings with regard to the house/premises and that the applicants will not enter the premises, without obtaining an order from the Civil Court.

6. Considering the background of the case, the applicants deserve to be granted pre-arrest bail on the following terms and conditions :

ORDER

- i) In the event of the arrest, the Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount ;
- ii) The Applicants shall attend the Meghwadi Police Station, Mumbai, once a fortnight i.e on 1st and 3rd Saturday of every month, between 10.00 a.m. to 11.00 a.m, till the conclusion of the trial.
- iii) The Applicants shall not tamper or attempt to influence the witnesses or any persons concerned with the case ;
- iv) The Applicants shall not in any way make an attempt

to contact/meet the complainant or any persons concerned with the case.

- v) The Applicants shall also not enter Squatters Colony, Jogeshwari, Mumbai, where the complainant is residing, till the completion of his trial, subject of course, to orders passed by a court of competent jurisdiction/Civil Court.

- 7. The Application is allowed and disposed of in above terms.
- 8. Parties to act upon the authenticated copy of this order.
- 9. It is made clear, that the observations made herein, are prima-facie for considering the present application and the Civil Court shall decide the proceedings on its own merits, in accordance with law, uninfluenced by the conditions imposed herein.
- 10. Parties to act upon an authenticated copy of this order.

(REVATI MOHITE DERE, J.)