

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 459 OF 2015

1. Jayprakash Nagrani
2. Naru Nagrani
3. Rohit Nagrani
4. Gulraj @ Gul ChatijaApplicants

V/s.

The State of MaharashtraRespondent

CRIMINAL APPLICATION NO. 380 OF 2015
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 459 OF 2015

Amit Dhamandas AssudaniIntervener

IN THE MATTER BETWEEN

Jayprakash Nagrani and othersApplicants

V/s.

The State of MaharashtraRespondent

Mr. Pradeep Dalvi for Applicant
Mr. Mohd. Saeed Asgar Moghul for Intervener
Mr. S. H. Yadav APP for the State.
Mr. M. B. Tharane, P.I. Naupada Police Station, Thane.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 31st 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. 224 of 2014 registered at Central Police Station, Ulhasnagar, Dist. Thane

2) It is the case of prosecution that complainant herein had filed a complaint under section 2 (D) of Code of Criminal Procedure, 1973 before Civil Judge, Junior Division at Ulhasnagar. The same was registered as R.C.C. No. 655 of 2013. In the said complaint, complainant had alleged that on 29/05/2013, at about 9.15 p.m., complainant was sitting in his shop. Suddenly, applicants along with co-accused had entered into his shop, threatened him on the ground that he had given complaint against them in Central Police Station. They tried to get the complainant out of his shop, abused him and threatened him of dire consequences. It was alleged that complainant was ruthlessly beaten and that accused had taken away cash amount of Rs. 2000/- which was kept in the cash drawer of his shop. It is also alleged that accused persons had snatched the golden chain adorned by the complainant. That the complainant had immediately approached the police station and lodged the report about the said incident. On the basis of the said

report, N.C. No. 1120 of 2013 was registered against applicants and others for offence punishable under sections 323, 504, 427 of Indian Penal Code. Learned Magistrate had declined to issue directions under section 156 (3) of Code of Criminal Procedure, 1973, but the case was posted for recording of verification statement of the complainant. On 17/06/2014, complainant had lodged a report at Central Police Station, alleging therein that on 29/05/2013, applicants and co-accused had entered into his shop. Pursuant to the directions of the Assistant Commissioner of Police, complaint filed by the complainant prior to filing private complaint was inquired into. Statement of the complainant was recorded on the ground that a genuine cognizable case has been made out and hence, crime no. 224 of 2014 was registered at Central Police Station against applicants and others on 17/06/2014 for offence punishable under sections 452, 395, 427, 504 of Indian Penal Code. In the said case also, offence that was alleged against the applicants pertain to the incident dated 29/05/2013. On 14/10/2013, in fact, applicants were enlarged on bail by the learned Magistrate and they were directed to furnish cash bail of Rs. 3000/- each. Cash bail was furnished on the same day, however, only after crime no. 224 of 2014 was registered against applicants, they had

furnished surety on 22/09/2014 and 04/10/2014.

3) Learned counsel for the applicant submits that in respect of the incident dated 29/05/2013, applicants were enlarged on bail by the learned Magistrate, even prior to the registration of crime no. 224 of 2014. According to the learned counsel, applicants cannot be denied pre-arrest bail for the same incident and same act. It is true that what has to be investigated is the offence and the act committed by the accused.

4) 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. in crime no. 224 of 2014, discharge application or at the time of trial.

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. 25,000/- each with one or two sureties in the like amount.
- (iii) Applicant shall not reside in the locality of Central Police Station, Ulhas Nagar for a period of 8 weeks. Applicants shall not

threaten the complainant or contact him in any manner.

(iv) Intervention application is heard allowed and disposed of.

(v) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)