

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 521 OF 2015

1. Dilip Damodar KiniApplicants
2. Mr. Nitin Damodar Kini

V/s.

The State of MaharashtraRespondent

Mr. Shailendra Pendse for Applicants
Mr. Y. M. Nakhwa APP for the State.
Mr. S. C. Deore, API, SDPO Mira Road

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 9th JUNE 2015

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicants herein are apprehending their arrest in crime no. 159 of 2015 registered at Kashimira Police Station. Applicants are being prosecuted for offence punishable under section 354, 504, 506 of Indian Penal Code and section 310 of Scheduled Caste and Scheduled Tribe Prevention of Atrocities Act, 1989.

2) It is the case of prosecution that on 27/03/2015 one Smt. Shobha Kamble lodged a report at the police station alleging therein that she is a

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widow. She belongs to Hindu Mahar Caste. She is residing in Chawl of Dilip Damodar Kini i.e. present applicant no. 1. The tenement consists of 3 rooms. One of the room was occupied by one Ramesh Gaikwad who stays along with his wife and two children. On 12/02/2015, daughter of Ramesh Gaikwad was proceeding to work and at that time one Vikas had humiliated her. He was stalking her. Rekha returned home in the evening. In the evening, Ramesh Gaikwad and his family members had abused Vikas who happens to be her son. There was an altercation between two groups. They had approached the police station. A non cognizable case bearing no. 67 of 2015 was registered against Vikas and his parents for offence punishable under sections 324, 504, 506 of Indian Penal Code. According to complainant on 13/02/2015, present applicant and his brother had came to her house and being enraged by incident which had occurred on 12/02/2015 had attempted to outrage her modesty by making unwarranted gestures. They had abused her by referring to her caste and hence, had insulted her in public view.

3) It is pertinent to note that it is alleged in the F.I.R. that present applicants had not only threatened first informant of dire consequences but had asked her to vacate the said premises.

4) Learned counsel for the applicant submits that in fact present applicants are not concerned with the prelude to the incident which had occurred on 12/02/2015 and in fact, the applicants had attempted to rescue Rekha and therefore, complainant being annoyed with the same has concocted the false case and has lodged the report. It is a matter of record that incident is dated 12/02/2015, however, report is lodged on 07/04/2015. There is no plausible explanation for the inordinate delay in lodging F.I.R. Prima facie it appears that some discordant note had struck between residents of local area and present applicant who happens to be owner of the said premises.

5) Learned APP submits that there is bar under section 18 of Scheduled Caste and Scheduled Tribe Prevention of Atrocities Act, 1989 and applicants would not be entitled for the relief under section 438 of Code of Criminal Procedure, 1973 due to the said embargo.

6) It appears from the papers of investigation that statements of eye witnesses was recorded on 22/04/2015 i.e. after applicants were protected by pre-arrest bail by this Court and hence statements of witnesses would not inspire confidence of this Court. Considering the facts of the case and the role attributed to the present applicants, applicants have prima facie made out a

case for grant of pre-arrest bail. Custodial interrogation would not be imperative

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. 15,000/- each and one or two sureties in the like amount.
- (iii) Applicants shall report to the police station as and when called.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)