

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 838 OF 2015

Ilteja Hussain Khan s/o Ghulam
Sarwar Khan.

... Applicant.

Versus

The State of Maharashtra

... Respondent.

Ms. Anjali Awasthi, advocate for Applicant.

Ms. P.P. Shinde, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JULY 22, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State. Perused papers.

2 This is an application under Section 438 of the Code of Criminal
Procedure, 1973. The applicant herein is apprehending his arrest in
Crime No. 276 of 2015 registered at Goregaon Police Station on
4/6/2015 for offence punishable under Section 452, 354, 504 of the
Indian Penal Code.

3 It is the case of the prosecution that on 3/6/2015 the complainant lodged a report at the Goregaon police station alleging therein that in the early house of 4/6/2015 i.e. at about 1.30 a.m. the applicant herein had trespassed into her hut, he had threatened her of dire consequences and had attempted to outrage her modesty. She has elicited in the first information report that there is dispute over the said hut between her and the applicant.

4 Perused the papers of investigation. It appears that on 2/6/2015 the complainant had filed a complaint at the Goregaon Police Station alleging therein that she was acquainted with the wife of the present applicant. She had dispute with the wife of the applicant. And that the wife had told the complainant that she desires to reside in that hut. There was an altercation between both the ladies. On 4/6/2015 report is lodged against the present applicant.

5 The learned Counsel for the applicant submits that in fact, it is the business of the complainant to occupy vacant spaces and take the

possession forcibly. She constructs illegal huts. The land belongs to M.M.R.D.A.. There is a dispute between the applicant and the complainant on the ground that the applicant would not permit her to raise illegal huts in the said area and the complaint has been filed only to pressurise the applicant for not filing any complaint against the complainant.

6 As against this, the learned APP submits that the applicant had given names of the witnesses who had accompanied him to the police station to lodge a report against the complainant. According to the learned APP, the witnesses have criminal antecedents and are terrorising the people in the Goregaon area.

7 Upon perusal of the papers of investigation and the submissions advanced across the bar and the fact that there is no criminal antecedent against the applicant, this Court is of the opinion that the applicant deserves grant of pre-arrest bail.

8 The observations made hereinabove are prima facie in nature. The same shall not be considered while deciding the application for discharge or quashing of FIR or at the time of trial. The same be decided on its own merits in accordance with law.

9 Hence, the following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or more sureties in the like amount.
- (iii) The applicant shall not reside in the jurisdiction of Goregaon Police station for 3 months from today.
- (iv) The applicant shall furnish his recent address, cell phone number, landline number and the other details to the investigating officer within one week from today.

(v) The applicant is permitted to enter into the said area on 4th and 5th August, 2015 to complete the rituals of his deceased wife.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)