

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1002 OF 2015

1 Dr. Hemant Vishwas More.
2 Sachin Tanaji Ranjane. ... Applicants.

Versus

The State of Maharashtra. ... Respondent.

Mr. Hrishikesh Mundargi, advocate for Applicants.

Mr. G.K. Sankpal, advocate for intervenor.

Mrs. P.P. Shinde, APP for State.

Mr. Aslam Khatib, API Mahatma Phule Chowk Police Station, Kalyan.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JULY 29, 2015

P.C.:

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

2 This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicants herein are apprehending their arrest in Crime No. 493 of 2015 registered at Mahatma Phule Chowk Police Station on 17/5/2015 for offence punishable under Section 323, 324, 397, 337, 143, 144, 147, 148, 506, 511 read with 34 of the Indian Penal Code.

3 The applicant No. 1 herein happens to be the first cousin of the complainant and applicant No. 2 happens to be the lessee of the Gala No. 3 situated at Chintamani Krupa Co-op. Housing Society, Kalyan. It is the case of the complainant that there is a dispute between both the parties over gala No. 3. According to the complainant, the applicants had owed certain amount to the complainant. There was a settlement deed in which the complainant was put into possession of gala No. 3. The said contention of the complainant is denied by the applicant No. 1 herein. It is alleged that on the day of incident i.e. on 17/5/2015 all the accused persons alongwith some miscreants had tried to open lock of the gala No. 3 and had replaced it by their lock.

The complainant contended that the shop belongs to him, as he was put into possession. The complainant had attempted to restrain act of the accused and in the said act, there was an altercation. The members of both the rival parties were injured.

4 It is a case of cross-complaint. The applicants herein had also lodged complaint about the same incident to the police station on the basis of which Crime Nos. 494 of 2015 and 495 of 2015 are registered. Upon perusal of the record, it appears that all the offences are registered almost at the same time. There are civil disputes between the parties in respect of gala No. 3. Basically, there appears to be a civil dispute between the parties and it has taken a violent turn and hence, criminal prosecution is initiated by both the parties. It appears from the record that the applicants had also filed several complaints against the family of the complainant and vice-versa. In view of this, the applicants deserve pre-arrest bail.

5 It is made clear that the observations made hereinabove are restricted to an application under Section 438 of the Code of Criminal Procedure, 1973. The same shall not be considered while deciding the application for discharge or for quashing of FIR or at the time trial. The learned Trial Court shall decide the matter uninfluenced by the above said observations and arrive at a conclusion only on the basis of the substantive evidence adduced by the prosecution at the time of trial.

6 Hence, following order is passed:

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- each and one or two sureties in the like amount.
- (iii) The applicants shall report to the concerned police station from 3/8/2015 to 5/8/2015 between 10 a.m. to 1 p.m. and cooperate with the investigating officer to the best of their capacity.

(iv) The applicants shall not tamper with the evidence or shall not threaten or intimidate the complainant or his family members.

7 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)