

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1176 OF 2015

1. Rakesh Mahadev Patil
2. Vishwanath Kisan Patil
3. Kisan Govind Patil

.....Applicants

V/s.

The State of Maharashtra

....Respondent

Mr. A. P. Mundargi, Senior Counsel i/b Mr. Jayant J. Bardeskar for Applicants
Mr. Y. M. Nakhwa APP for the State.
Mr. Vijay F. Shinde, P.I. Waliv Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : AUGUST 12, 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. 262 of 2015 registered at Waliv Police Station for offence punishable under sections 392, 120 (B) & 427 of Indian Penal Code.

2) It is the case of prosecution that one Ganesh Vaishya lodged a report at police station on on 01/07/2015, alleging therein that he is working as Manager in the office of Asha Enterprises owned by Pravin Gupta. He resides in the house of Pravin Gupta. On 30/06/2015, at about 9.00 a.m., driver of his

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owner Sonu and Bhairav had come to the office. That complainant, Sonu and Bhairav were chatting in the office and at that time, suddenly, office was attacked by three unknown persons. That the said unknown persons had ransacked the office. They had threatened complainant and his associates of dire consequences. They had taken Rs. 2 lacs from the drawer of the said office and had fled away.

3) On the basis of the said report, crime was registered and investigation was set in motion. On 16/07/2015, Sachin Thorat and Sonya Bhoir were arrested. They were granted police custody till 20/07/2015. In the remand report dated 20/07/2015, Praful Tangadi and Kunal Gavali were shown as wanted accused persons. That investigating agency had sought extension of police custody on the ground that they wanted to investigate as to who are the associates of arrested accused. In the remand report dated 21/07/2015, present applicants were shown as wanted accused. On 21/07/2015, statement of arrested accused Sachin Thorat was recorded by the investigating agency. He had allegedly disclosed to the police that in June 2015, wife of applicant Vishwanath Patil had contested the elections of Vasai-Virar Municipal Corporation. She has contested on the ticket of Bahujan Vikas Aghadi. At that

time, Praful Tangadi and Kunal Gavali were campaigning for her. That the office of Praful Tangadi is in close proximity with the office of present applicant and they are well acquainted with each other. Veena Gupta wife of Pravin Gupta had also contested the said elections, however, both the contestants were defeated by candidate contesting on the ticket of Shiv Sena.

4) That there was political enmity between present applicants and Pravin Gupta since his wife had lost. That they wanted to terrorize in the said locality and more particularly they wanted to threaten Pravin Gupta of dire consequences and therefore, they had hired the services of Sachin Thorat and Praful Tangadi. They had agreed to co-operate and hence, according to arrested accused Sachin Thorat, they had ransacked the office of Pravin Gupta and had stolen Rs. 2 lacs. On the basis of this statement, it is being submitted that applicants herein had conspired to ransack the office of complainant. That they had hired the services of other accused and therefore, their custodial interrogation is imperative.

5) It is pertinent to note that statement of Sachin Thorat would only be a statement of co-accused. It is further pertinent to note that in remand report dated 20/07/2015, there is no reference to the applicant. It is only after the

statement was recorded on 21/07/2015, that the applicants are shown as wanted accused. Prima facie, there is no incriminating material which would warrant custodial interrogation. In any case, it is not a case of the prosecution that the present applicants were anywhere close in proximity to the office of complainant at the time of incident. No overt act is attributed, except the suspicion that they must have conspired to take revenge of elections. In view of this, custodial interrogation of the applicants is not imperative. 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., discharge application or at the time of trial.

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. 25,000/- each with one or two sureties in the like amount.
- (iii) Applicant shall report to concerned police station on first Sunday of each month till the filing of charge-sheet and co-operate with the investigating agency to the best of their capacity.

(iv) Applicants shall not tamper with evidence. They shall not contact the witnesses.

(v) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)