

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1227 OF 2015**

Yogesh Laxman Kamthe & Anr.	...Applicants
Versus	
The State of Maharashtra	...Respondent

Ms. Priyal Gopaldas Sarda for the Applicants

Mr. Y. M. Nakhwa, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

FRIDAY, 21st AUGUST, 2015

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P.
2. By this application, the applicants seek pre-arrest bail in connection with C.R No. 245 of 2015 registered with the Kondhwa Police Station, Pune for the alleged offences punishable under Sections 380, 384, 427, 447, 448, 504, 506(2) r/w 34 of the Indian Penal Code.
3. The first informant is one Krishikesh D. Borade, a partner of Swift Pack Industries. The said Company was situated at Old Survey No. 23, New Survey No. 27/9/1B/2 Kondhwa BK, Pune, admeasuring 40 ares. A complaint was lodged by the complainant which was registered as FIR

on 10th June, 2015. According to the complainant, their Company had purchased the said land in the year 1986 and as such were the owners of the same. According to the complainant, the alleged offence took place on 29th December, 2014, when the applicants along with the other co-accused tried to obtain possession of the land and committed theft of the machinery of the Company.

4. Learned Counsel for the applicants contended that there is a property dispute between the parties and on account of the same, the applicants have been falsely implicated in the said case. He submitted that no offence under Section 380 of the Indian Penal Code is disclosed. He submits that only on account of the property dispute, a false case has been registered against him.

5. Learned A.P.P opposed the bail application. He submitted that there are witnesses to show that the applicants had threatened the complainant with dire consequences.

6. Perused the papers, in particular, the complaints lodged by the complainant dated 7th January, 2015 and 20th March, 2015 with the

Authorities. The said complaints were made by the complainant to the Senior PI, Kondhwa Police Station. The gist of the allegations is that the applicants were trying to illegally encroach upon the property and usurp the property of the complainant. It is also alleged that they had brought a JCB machine and had tried to demolish the wall and shed of the complainant's property. It also appears that a Civil Suit has been filed by the complainant with regard to the said property and that the same was decided in favour of the complainant. *Prima facie*, it appears that the complainant was in possession of the said property for several years. It also appears from a perusal of the complaint applications dated 7th January, 2015 and on 20th March, 2015, that there is not a whisper of theft of any machine having been committed, by the accused, though the alleged theft is stated to have taken place on 29th December, 2014. It is in this background, that the applicants are granted anticipatory bail on the following terms and conditions :

ORDER

- (i) The applicants, in the event of their arrest, be enlarged on bail on executing PR Bond in the sum of Rs. 25,000/- each with one or two solvent sureties in the like amount;

(ii) The applicants shall attend the concerned Police Station on the first and third Saturdays between 10:00 a.m. to 11:00 a.m. for a period of twelve months and thereafter, on the first Saturday of every alternate month till the conclusion of the trial;

(iii) The applicants shall cooperate with the investigating agency and shall not tamper or attempt to influence the witnesses or any person concerned with the case;

7. Application disposed of on the above terms.

8. It is made clear that the observations made herein are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.